

GAHC010096492023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2470/2023

SURAJMONI SAIKIA
SON OF GUNESWAR SAIKIA,
VILLAGE- LAOKHOWA PATH, NEAR NAMGHAR, DIFALU,
P.O.- ITACHALI, DISTRICT- NAGAON,
ASSAM, PIN- 782003.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE INSPECTOR OF SCHOOLS
NAGAON DISTRICT CIRCLE
NAGAON
DISTRICT- NAGAON

ASSAM
PIN- 782001

Advocate for the Petitioner : MR. N HOSSAIN

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

17-05-2023

Heard Mr. N. Sarma, learned counsel for the petitioner. Also heard Mr. S.M.T. Chistie, learned Standing Counsel, Secondary Education Department, appearing for all the respondent.

2. The petitioner claims to be the senior most teacher of Mohkhuli Swahid Anil Bora M.E. School. The petitioner was appointed as an Assistant Teacher of Mohkhuli Swahid Anil Bora M.E. School on 20.01.1994 and subsequently, the said school was amalgamated with Mohkhuli Swahid Anil Bora High School as per the approval granted by the Department of Education, Government of Assam in the year 2000. Pursuant to the amalgamation, the petitioner has been serving as an Assistant Teacher in the said amalgamated High School. It is submitted that the serving Headmaster of the said High School superannuated from service on 03.04.2023 and the petitioner has been directed to look after the academic affairs of the school till appointment of the regular In-charge Headmaster. This order was passed by the Inspector of School, NDC, Nagaon vide order dated 29.04.2023. The petitioner thereafter filed a representation on 03.05.2023 before the Director of Secondary Education praying for being considered to be appointed as the In-charge Headmaster of the said school till regular appointment is made. Learned counsel for the petitioner submits that his application was received in the office of the Director of Secondary Education but no order has been passed by the Director of Secondary Education till date.

Learned counsel for the petitioner submits that since the petitioner's prayer made in the representation is not considered, he is before this Court filing the instant writ petition.

3. Mr. S.M.T. Chistie, learned Standing Counsel, Secondary Education Department submits that the petitioner is not a B.T./B.Ed. degree holder and therefore, under the Rule 18 of the Assam Secondary Education (Provincialised Schools) Service Rules, 2018 he is not qualified to be considered for the post of Headmaster and therefore, there is no question of appointing an unqualified person to the post of In-charge Headmaster and giving him the responsibility of the said post till the selection of regular Headmaster.

4. Be that as it may, since it is submitted that a representation has been submitted by the petitioner before the Director of Secondary Education on 03.05.2023, this Court is of the view that the writ petition can be disposed of with a direction to the Director of Secondary Education, namely, respondent no.2 to dispose of the representation dated 03.05.2023 stated to have been filed by the petitioner as expeditiously as possible, if not already disposed of in the meantime.

5. The Director will consider the prayer made in the representation and pass appropriate order taking into consideration of the provisions of Rule 14 of the Assam Secondary Education (Provincialised Schools) Service Rules, 2018. This exercise shall be completed within a period of 30 (thirty) days from the date of receipt of the certified copy of this order.

6. Since this writ petition is disposed of at the motion stage itself without issuing any notice to the respondents, the petitioner shall file a copy of the write petition along with a copy of this order before the respondent no.2 and thereafter, the matter shall be heard and disposed of as directed above.

7. The writ petition stands disposed of with the above observations.

JUDGE

Comparing Assistant