

GAHC010113832023



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

Case No. : WP(C)/3032/2023

ARABINDA KALITA
S/O LT. GARGA RAM KALITA, R/O KETEKIBARI, BARAMBOI, P.O.-
BARAMBOI, P.S.-BARAMBOI, DIST-KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED HEREIN BY THE COMMISSIONER AND SECRETARY TO
THE GOVERNMENT OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT,
SACHIVALAYA, DISPUR, GUWAHATI-06

2:THE MISSION DIRECTOR
AXOM SARBA SIKHA ABHIYAN MISSION
KAHILIPARA
GUWAHATI-19
ASSAM

3:THE INSPECTOR OF SCHOOLS AND DEEO CUM DMC
SSA
KAMRUP
AMINGAON

4:BLOCK ELEMENTARY EDUCATION OFFICER
HAJO
KAMRUP
ASSA

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

31.05.2023

Heard Shri S. Borthakur, learned counsel for the petitioner. Also heard Shri A. Phookan, learned Standing Counsel, Elementary Education Department for the respondent nos. 1 & 4 whereas Shri S. Bora, learned Standing Counsel, SSA for the respondent nos. 2 & 3.

2. The petitioner has put to challenge the action of the respondent authorities in issuing an order dated 04.05.2023 by which the petitioner has been reverted back to the original school.

3. The case projected is that the petitioner, who was working in a substantive post of Assistant Teacher of the Khoponikuchi High School under the Hajo Educational Block, was deputed to work as a Cluster Resource Centre Coordinator (hereinafter called CRCC) in the year 2015. Pursuant to such order, it is the admitted case that an agreement was entered into between the parties whose tenure was one year subject to extension by a fresh agreement. The petitioner claims to have continued in the post of CRCC continuously. On 11.04.2022, an order was passed to revert the petitioner back to the original post which however was not acted upon on the representation of the petitioner and he was allowed to remain in the post of CRCC. However, vide a subsequent order dated 11.08.2022, all such CRCC have been released and subsequently, vide the impugned order dated 04.05.2023 the petitioner has also been released from the post of CRCC.

4. Shri Borthakur, learned counsel for the petitioner has submitted that the impugned action is not sustainable in law on the following grounds:

- i. The action has been taken without due authority as it is the Mission Director of the Mission who is vested with such jurisdiction.

ii. There is no request from the Headmaster of the school in question in which the petitioner was substantially appointed to revert back the petitioner.

iii. There have been new recruitments of teachers in the school in question and therefore the ratio between the students and school were maintained and there was no requirement of such reversion.

iv. There is a Clause in the agreement, namely, Clause 5, as per which the power to terminate the agreement is given only to the Mission Director, SSA which has not been done before the impugned action has been taken.

5. On the other hand, both Shri Bora, learned Standing Counsel, SSA as well as Shri Phookan, learned Standing Counsel, Elementary Education Department have submitted that the initial arrangement was a temporary one for one year which however continued for about eight years. It is further submitted that the agreement itself stipulated that the same was for a period of one year and for extension, a fresh agreement was required to be executed which has not been annexed to the writ petition. However, even assuming that such extensions were made from time to time, the core issue which requires consideration is the lack of any indefeasible right of the petitioner to continue as CRCC to which he was deputed only for a temporary period. It is further submitted that the decision to revert back the petitioner is not dependent on the interpretation given by him on such requirement and on the teacher student's ratio.

6. After hearing the parties and on examination of the materials on record, this Court finds force in the argument of the learned counsel for the respondents. This Court does not notice any vested right of the petitioner to make a claim that he should be retained indefinitely as a CRCC as the initial order itself makes it clear that the arrangement was a temporary one for one year which was extended from time to time. The other grounds urged cannot be treated as grounds which are within the domain of the petitioner as the satisfaction is of the authorities both on the

requirement of his service in the original school and also with regard to the teacher student's ratio. Though the point regarding lack of jurisdiction could have been a point for adjudication, in view of the fact that this Court has come to the conclusion that the petitioner does not have a vested right to question such reversion, this Court is not inclined to go to the aspect of adjudicating the said point.

7. In that view of the matter, this writ petition is dismissed.

JUDGE

Comparing Assistant