

GAHC010145352021



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

Case No. : WP(C)/4997/2021

AMIR ALI
S/O LATE ABDUL MOZID,
R/O VILL. BARAIBARI PART IV,
P.O. GERAMARI, DIST. DHUBRI,
ASSAM, PIN 783339

VERSUS

1. THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, DEPTT. OF ELEMENTARY EDUCATION DISPUR, GUWAHATI 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION, ASSAM,
KAHILIPARA, GUWAHATI 19

3:THE DEPUTY COMMISSIONER, DHUBRI,
DIST. DHUBRI, ASSAM, PIN 783301

4:THE DEEO, DHUBRI
DIST. DHUBRI, ASSAM, PIN 783301

5:THE BEE0,
GAURIPUR EDUCATION BLOCK
DIST. DHUBRI, ASSAM, PIN 78333

Advocate for the Petitioner : MR. M A ISLAM

Advocate for the Respondent : SC, ELEM. EDU

- B E F O R E -

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

06.12.2023

Heard Mr. M.A. Islam, learned counsel for the petitioner. Also heard Mr. B. Talukdar, learned Standing Counsel, Elementary Education Department.

By this writ petition, the petitioner has raised a grievance pertaining to non-provincialization of his services under the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017,

The petitioner was initially appointed as an Additional Teacher in Chirakhowa M.E. Madrassa on 24.03.2010 and thereafter, it is contended that he was upgraded to the post of Assistant Teacher on 14.10.2021.

The respondent authorities had taken-up the cases of the teachers working in the said school for provincialization of their services under the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, and as required, the District Scrutiny Committee, Dhubri, in its report available at Annexure-5 to the writ petition, had found the petitioner along with 3(three) other teachers of the school to be eligible for provincialization.

It is the case of the petitioner that subsequently, the matter was placed before the State Level Scrutiny Committee and the said authority had not found the petitioner suitable for provincialization and had only selected the other 2(two) remaining teachers recommended by the District Scrutiny Committee for provincialization of their services.

In terms of the decision of the State Level Scrutiny Committee, the

Government has already passed appropriate orders towards provincialization of their services. The petitioner being aggrieved, has instituted the present proceeding claiming that she has been discriminated. The grievance raised by the petitioner would require determination involving factual aspects and may also require oral depositions to be made which may not be possible before this Court in the present proceeding. To meet such eventuality, the said Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, has in Section 14, provided for an appellate authority.

In the present case, the State Level Scrutiny Committee having already considered the matter, the appellate authority would be the Secretary. Accordingly, the petitioner is now required to approach the Secretary to the Government of Assam, Department of School Education, by way of filing an appeal under Section 14 of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017.

In the event of such an appeal being filed within a period of 15 days from today, the appellate authority shall examine the claims made by the petitioner in accordance with the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, and thereafter, consider and dispose of the said appeal with a speaking order within a period of 2(two) months.

With the above directions, the present writ petition stands disposed of.

JUDGE

\Comparing Assistant