

GAHC010145502023



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

Case No. : WP(C)/3907/2023

MRS. JAYA DEKA
W/O SRI BHAGAWAN KALITA, R/O VILL- 2 NO. DHAMKHUNDA, P.S.-
CHANDRAPUR, P.O.-KAMARPUR, DIST- KAMRUP (M), PIN-782411, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER (DEEO)
KAMRUP (METRO) DISTRICT
ASSAM-781001

4:THE BLOCK ELEMENTARY EDUCATION EDUCATION OFFICER
DIMORIA
KAMRUP (M) DISTRICT
PIN-782410

5:THE DEPUTY COMMISSIONER
KAMRUP (M)
CHAIRMAN OF DSC
PIN-781001

6:HAREN CH. SARKAR
ASSISTANT TEACHER
NARAKANTA DEKA M E SCHOOL
DIGHALATTI

KAMRUP (M)
PIN-782411
ASSAM

7:PANKAJ KUMAR MANDAL
HINDI TEACHER
NARAKANTA DEKA M E SCHOOL
DIGHALATTI
KAMRUP (M)
PIN-782411
ASSA

Advocate for the Petitioner : MR. A DEKA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 17.07.2023

Heard Mr. A.Deka, learned counsel for the petitioner. Also heard Mr. A.Phukan, learned standing counsel, Elementary Education for the respondent Nos. 1 to 4 and Ms. D.D.Barman, learned Govt. Advocate for the respondent No.5.

2. The petitioner was initially appointed as Assistant Teacher of Narakanata Deka M.E. School under Dimoria Educational Block, Kamrup(M) by an appointment letter dated 21.12.1985. Thereafter, the petitioner was again appointed as Headmistress of Narakanata Deka M.E. School on the basis of the resolution passed by the Managing Committee of Narakanata Deka M.E. School dated 20.11.1993. The inspection report of the Deputy Inspector of Schools, Pragjyotishpur dated 04.04.2005 also reflects the date of appointment of the

petitioner as 21.12.2985, the date of appointment of the respondent No.6 as 15.09.1997 and the date of appointment of respondent No.7 as 17.10.1993. The DISE report of the academic year 2013-2014 also captures the name of the petitioner as well as the respondent Nos. 6 and 7 indicating that the petitioner was teaching Language and Social Studies and the respondent No.6 was teaching Social Studies and the respondent No.7 was teaching Hindi subject as Language. The provincialisation of the services of the teaching and non-teaching staffs of the said Narakanata Deka M.E. School was carried out in terms of the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions), Act 2017, (Act of 2017 in short). Accordingly, the District Scrutiny Committee recommended the case of the petitioner as well as the respondent Nos. 6 and 7 for provincialisation of the services. The said proposal for provincialisation of the services of the petitioner and the respondent Nos. 6 and 7 was submitted by the District Elementary Education Officer to the Director of Elementary Education, Assam by proposal letter dated 20.02.2018. However, the State Level Scrutiny Committee rejected the case of the petitioner and recommended the case of the respondent Nos. 6 and 7 for provincialisation of the services.

3. It is the case of the petitioner that the family of the petitioner has donated 5 Bighas of land for the establishment of the Narakanata Deka M.E.School. The further case of the petitioner is that the service of the petitioner should have been provincialised under Sections 19 and 25 of the Right of Children to Free and Compulsory Education Act, 2009. The third ground of the petitioner is that the class wise enrolment from the year 2016 up to the year 2021, is in excess of 100 students in Class VI, VII and VIII respectively. On these three grounds, the

petitioner submits that her case should have been provincialised in terms of the Act of 2017. However, the State Level Scrutiny Committee failed to consider these grounds and rejected the case of the petitioner and recommended the services of the respondent Nos. 6 and 7 who are junior to the petitioner.

4. Section 14 of the Act of 2017 provides for an appeal before the State Government against any recommendation made by the State Level Scrutiny Committee.

5. Accordingly, this writ petition is disposed of directing the petitioner to file an appeal before the State Government within a period of 2(two) weeks w.e.f today. Thereafter, the appellate authority on receipt of the appeal shall hear the petitioner as well as the respondent Nos. 6 and 7 and the District Elementary Education Officer, Kamrup(M). While considering the appeal, the appellate authority shall also take into consideration Sections 19 and 25 of the Right of Children to Free and Compulsory Education Act, 2009 as well as Section 3(xi) of the Act of 2017 and also the fact that the family of the petitioner has donated 5 Bighas of land for establishment of Narakanata Deka M.E. School. Thereafter, the appellant authority shall dispose of the said appeal by a speaking order within a period of 2(two) months w.e.f the date of receipt of the appeal.

6. It is also made clear that the provincialisation of the services of the respondent Nos. 6 and 7 shall be subject to outcome of the order passed by the appellant authority.

7. With the aforesaid observations and directions, this writ petition is disposed of

JUDGE

Comparing Assistant