

GAHC010152642023



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

Case No. : WP(C)/4116/2023

SUNIL KAKATI
S/O LATE HUMESWAR KAKATI
R/OLAGUWATI ROUMORA,P.S. MAJULI GARAMUR, DIST. MAJULI, ASSAM
PIN-785104

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE SECRETARY TO THE GOVT.OF ASSAM, DEPARTMENT OF
SCHOOL EDUCATION, DISPUR, GUWAHATI-781006

2:THE DIRECTOR
SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE SCRUTINY COMMITTEE (SECONDARY)
REP. BY THE CHAIRMAN
I.E.
THE DEPUTY COMMISSIONER
(EDUCATION)
GOLAGHAT
ASSAM
PIN-785621

4:THE HEADMASTER
MAMORANI PANCHARATNA HIGH SCHOOL
NA-BHANGA
P.S. DERGAON
DIST. GOLAGHAT
ASSAM
PIN-785614

5:THE DEPUTY COMMISSIONER
GOLAGHAT
ASSAM
PIN-785614

6:THE INSPECTOR OF SCHOOL
GDC
GOLAGHAT
PIN-785614

7:DIPIKA BARUKIAL
D/O SRI JEURAM BARUKIAL
R/O DADHORA AHOM GAON
P.S. DADHARA
P.S. DERGAON
DIST. GOLAGHAT
ASSAM
PIN-78561

Advocate for the Petitioner : MR. R BORUAH

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

28.07.2023.

Heard Mr. A. Deka, learned counsel for the petitioner. Also heard Mr. S.M.T. Chistie, learned standing counsel for the Secondary Education Department, Assam appearing for the respondent Nos.1, 2 & 6 and Ms. D.D. Barman, learned Govt. Advocate, Assam for the respondent Nos.3 & 4.

This writ petition is filed by the petitioner being aggrieved by the order dated 20.06.2023, issued by the Director of Secondary Education, Assam, whereby the earlier order dated 07.01.2025 was reviewed in terms of the order dated 18.11.2019, passed by this Court in WP(C) No.799/2018.

The WP(C) No.799/2018 was disposed of on 18.11.2019, with the following directions:

“Accordingly, the present petition is disposed of directing the respondent authorities,

more particularly, the Director of Secondary Education to review the impugned order dated 07.01.2015 and if the Director finds that the District Scrutiny Committee in their meeting held on 07.01.2015 had indeed taken the resolution as quoted above, the impugned order dated 07.01.2015 also requires to be reviewed and consider provincialisation of the petitioner. The Director will do the needful as provided under Section 24 of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017. The aforesaid exercise shall be undertaken within a period of 3 (three) months from the date of receipt of a certified copy of this order”.

A perusal of the order dated 20.06.2023 would indicate that the case of the petitioner was rejected on two grounds, namely: (1) that there is no any clause in the *Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017*, as Amended 2018, for provincialisation of service on humanitarian ground, and (2) the provisions of the Act of 2017, under Section 3(1)(ix) provides that there shall be additional post in the same subject in Venture High School, High Madrassa, if the minimum students appearing in the last final examination of the highest class for that subject exceeds 80 (eighty) students in each class for the second post and exceeds 150 in each class for the third post.

Therefore, on the basis of the report of the Headmaster of the Mamoroni Pancharatna High School, Golaghat, the number of students who appeared in the HSLC final examination in the year 2014, 2015 and 2016 were only 26, 25 and 37 respectively and accordingly, the case of the petitioner could not be considered.

On a consideration of the order dated 20.06.2023, the first ground that the case of the petitioner could not be considered on humanitarian grounds is not projected in the direction passed by this Court in the order dated 18.11.2019, in WP(C) No.799/2018. Further, the minutes of the District Scrutiny Committee, held on 07.01.2015, in respect of the petitioner would indicate that the Scrutiny Committee, after verification of documents and testimonials of the petitioner as well as the respondent No.7, along with the spot verification report dated 20.11.2014 of the Inspector of Schools, Golaghat District Circle that there was no change with regard to the recommendation of the case of the petitioner as on 15.11.2012 and the earlier Scrutiny Committee’s decision dated 07.08.2014 was cancelled.

In that view of the matter, it appears that Director of Secondary Education, Assam had reviewed its very order dated 07.01.2015, on wrong premises and accordingly, the same is set aside and quashed.

Accordingly, the matter is remanded back to the Director of Secondary Education, Assam/respondent No.2 to re-consider the matter afresh, with regard to provincialisation of the service of the petitioner, by giving an opportunity of hearing to the petitioner as well as the respondent No.7 and thereafter pass an appropriate order, in terms of the order dated 18.11.2019, passed by this Court in WP(C) No.799/2018, within two months from the date of receipt of a certified copy of this order.

With the above observations and directions, this Writ Petition stands disposed of.

JUDGE

Comparing Assistant