

GAHC010153552023



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

Case No. : WP(C)/4047/2023

SHAJAHAN ALI MONDAL
S/O JOMSER ALI MONDAL, VILL- SAKTOLIA, P.O.-AOLATOLI, DIST-
GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY), DISPUR,
GUWAHATI-781006

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE DIRECTOR OF THE ELEMENTARY EDUCATION
ASSAM
-CUM- CHAIRMAN OF THE STATE LEVEL SCRUTINY COMMITTEE
ASSAM
KAHILIPARA
GUWAHATI-781019

4:THE DISTRICT SCRUTINY COMMITTEE FOR ELEMENTARY EDUCATION
GOALPARA
REPRESENTED BY ITS MEMBER SECRETARY/THE DISTRICT
ELEMENTARY EDUCATION OFFICER
GOALPARA
P.O. AND DIST- GOALPARA
ASSAM
PIN-783101

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
GOALPARA
P.O. AND DIST-GOALPARA
ASSAM
PIN-783101

6:SHOHIDUR RAHMAN
S/O NASIR UDDIN SHEIKH
VILL- BANGLAJHAR
P.O.- BASHBARI
DIST- GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : MR. D A KAIYUM

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA**

O R D E R

14.08.2023.

Heard Mr. D.A. Kaiyum, learned counsel for the petitioner, Mr. A. Phukan, learned standing counsel for the Elementary Education Department representing the respondent No.1, 3, 4 & 5 and Mr. B. Gogoi, learned standing counsel for the Finance Department representing the respondent No.2.

This writ petition is filed by the petitioner being aggrieved by the recommendation of the District Scrutiny Committee, recommending the respondent No.6, namely, Shohidur Rahman for provincialisation in the subject of Social Studies in respect of K.B. Memorial M.E. Madrassa in the District of Goalpara.

Mr. D.A. Kaiyum, learned counsel submits that the petitioner was appointed on 10.12.2004, as an Assistant Teacher in the subject Social Studies and the private respondent No.6 was also appointed in the same school on 16.01.2006. Learned counsel for the petitioner further submits that the respondent No.6 is an Assamese Language teacher of the K.B. Memorial M.E. Madrassa. There is no dispute with regard to this fact. However the competent authorities, despite this fact, recommended the respondent No.6 for the subject of Social Studies, overlooking the claim of the petitioner and notwithstanding that the petitioner is the teacher of Social Studies of the same school.

By the order dated 02.01.2023, the Director of Elementary Education, Assam passed the impugned order. Being aggrieved by the said order, the petitioner preferred an appeal on 22.05.2023, before the appellate authority i.e. the Secretary to the Govt. of Assam, Department of School Education (Elementary).

It is submitted that the said appeal is still pending and has not been disposed of.

The learned counsel for the parties are in agreement that the Writ Petition can be closed with a direction to the appellate authority to dispose of the appeal, after hearing all affected parties, including the respondent No.6 .

Upon hearing the learned counsels for the parties, this Court is of the view that ends of justice will be met if a direction is issued to the Secretary to the Govt. of Assam, Department of School Education (Elementary), Dispur (respondent No.1) to effectively dispose of the appeal filed on 22.05.2023, preferred by the petitioner under Section 14 of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017, by passing a speaking order.

The appellate authority is directed to dispose of the appeal within a period of sixty (60) days from the date of receipt of the certified copy of this order.

Any such order that is passed by the appellate authority, copy thereof shall be served upon the petitioner.

The writ petition is accordingly closed in terms of the above direction.

JUDGE

Comparing Assistant