

GAHC010161912021



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

Case No. : WP(C)/5327/2021

MD. ABUL KASHEM AHMED
S/O LOKMAN ALI SARKAR, R/O VILL- KAMALPUR PAM, P.O.-BORBALA,
PIN-781316, DIST- BARPETA, ASSAM

VERSUS

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

2:DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19
KAMRUP(M)
ASSAM

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BARPETA
DIST-BARPETA
ASSAM

4:DEPUTY COMMISSIONER
BARPETA
DIST-BARPETA
ASSAM

5:MD. SANOWAR HUSSAIN KHAN
R/O VILL-KAMALPUR PAM
P.O.-BARPETA
PIN-781314

DIST-BARPETA
ASSAM

6:MD. FAKHRUL ISLAM
R/O VILL-KAMALPUR
P.O.-BARPETA
PIN-781314
DIST-BARPETA
ASSAM

7:MD. ABUL KASHEM SIKDAR
R/O VILL-KAMALPUR PAM
P.O.-BARPETA
PIN-781316
DIST-BARPETA
ASSA

Advocate for the Petitioner : MR G BORDOLOI

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 08.02.2023

Heard Mr.A.Deka, learned counsel for the petitioner. Also heard Mr. N.J.Khataniar, learned standing counsel, Elementary Education for the respondent Nos. 1, 2 and 3; Mr. S.R.Baruah, learned Govt. Advocate for the respondent No.4 and Mr. M.Mondal, learned counsel for the respondent Nos. 5, 6 and 7.

2. Petitioner was appointed as a subject Teacher (Hindi) on the basis of a resolution passed by the Managing Committee of the Kamalpur Pam M.E. Madrassa School on 07.01.1992. The respondent Nos. 5, 6 and 7 who are junior to the petitioner were appointed in the year 13.02.1993, 07.01.1992 and

17.05.1993 respectively as language Teachers. The name of the petitioner along with respondent Nos. 5, 6 and 7 were also captured in the DISE Code for the year 2019-2020. In the DISE Code, the petitioner is also indicated to be a Social Studies Teacher.

3. During the process of provincialisation of teaching and non-teaching staffs of the said school in terms of the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions), Act 2017, (Act of 2017 in short), the District Scrutiny Committee recommended the case of the respondent Nos. 5, 6 and 7, however, the name of the petitioner was not recommended. It is the stand of the petitioner that he has no grievance against the respondent No.6. However, he has a grievance against the respondent Nos. 5 and 7 inasmuch as both the respondent Nos. 5 and 7 are language Teachers and as per Rule 3(1) XI permits only for provincialisation of one language Teacher. Being aggrieved by non-provincialisation of his service, petitioner is before this Court.

4. Para 14 of the Act of 2017, provides for an appeal before the State Level Scrutiny Committee against the recommendations of the District Scrutiny Committee. Accordingly, this writ petition is disposed of directing the petitioner to file an appeal before the State Level Scrutiny Committee within a period of 10 (ten) days w.e.f today. Thereafter, on receipt of the appeal, the State Level Scrutiny Committee shall consider the grievance of the petitioner after giving an opportunity of personal hearing to the petitioner as well as the respondent Nos. 5 and 7 and thereafter, pass appropriate orders in accordance with law within a period of 2(two) months from the date of receipt of the appeal.

5. Till the appeal is disposed of, interim order passed earlier shall continue.

6. With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant