

GAHC010169372022



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

Case No. : WP(C)/5497/2022

DAMAYANTI BASUMATARY
W/O- GOBDA BASUMATARY,
R/O- VILLAGE MOUTARA,
P.O- GERUKABARI,
P.S- MANIKPUR,
DIST- BONGAIGAON, ASSAM,
PIN-783390,
ASSTT. TEACHER (SCIENCE) OF KHUJURAP GURI M.E SCHOOL, UNDER
CHIRANG (BTR) DISTRICT, ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR,
GUWAHATI-6.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE SECRETARY
TO THE GOVT. OF ASSAM
EDUCATION (ELEMENTARY) DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

5:THE DIRECTOR OF EDUCATION
B.T.C
KOKRAJHAR
DIST- BAKSA (BTR)
ASSAM
PIN-783370

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
CHIRANG
KAJALGAON
DIST- CHIRANG (BTR)
ASSAM
PIN-783385

7:THE BLOCK ELEMENTARY EDUCATION OFFICER
BOROBAZAR BLOCK
DIST- CHIRANG (BTR)
ASSAM
PIN-783385

8:THE HEADMASTER
OF KHUJURAPGURI M.E SCHOOL
DIST- CHIRANG (BTR)
ASSAM
PIN-78338

Advocate for the Petitioner : MRS A BUJARBARUAH

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

13.06.2023

O R D E R

Heard Mrs. A. Bujarbaruah, learned counsel for the petitioner. Also heard Mr. A. Phukan, learned Standing Counsel, Elementary Education Department, Government of Assam for respondent Nos.1. 3 and 4; Mr. R. Borpujari, learned Standing Counsel, Finance Department, Government of Assam for respondent No.2 and Ms. R.B. Bora, learned Standing Counsel, BTC for respondent Nos.5, 6 and 7.

2. The petitioner was appointed as a Science Teacher of Khujurapguri ME School, Chirang on 14.06.2010 to which post she joined on the same day. Since then, the petitioner has been serving as a Science Teacher till date.

3. Khujurapguri ME School, Chirang was established in the year 1993 and was provincialised on 01.01.2013. However, service of the petitioner could not be provincialised as she was found not qualified. The provincialisation of the School was carried out on the basis of the *Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011* (hereinafter referred to as the 'Act of 2011'). However, in the meantime, the Act of 2011 has been declared *null and void* by this Court. Accordingly, a new enactment has been made by the Government of Assam, namely, the *Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017* (hereinafter referred to as 'the Act of 2017').

4. The petitioner, in the meantime, acquired her B. Sc degree from the Gauhati University in the year 2016. She also acquired D.El.Ed from the National Institute of Open Schooling in the year 2020. As such, by this writ petition, the petitioner is praying for a direction to the respondents for provincialisation of her services under the provisions of the Act of 2017.

5. In the meantime, the Director of Elementary Education issued an advertisement on 31.05.2017 calling for applications from Teachers whose educational institutions have been provincialised as per the Act of 2011 but whose services have not been provincialised, are allowed to submit applications for provincialisation of services under the Act of 2017. Accordingly, pursuant to the advertisement dated 31.05.2017, the petitioner made an application for provincialisation of her services on 05.06.2017. However, the case of the petitioner is yet to be considered for provincialisation.

6. In that view of the matter, the present writ petition is disposed of directing the respondent-authorities, particularly, respondent No.4/Director of Elementary Education, Assam, Kahilipara to consider the claim of the petitioner for provincialisation of her services in terms of the Act of 2017 after due verification of all the relevant documents. After considering the case of the petitioner, if the service of the petitioner is found to be eligible for provincialisation under the Act of 2017, steps be taken to give the benefit of provincialisation to the petitioner at the earliest but not later than three months from the date of receipt of a copy of this order.

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

JUDGE

Comparing Assistant