

GAHC010178682021



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

Case No. : WP(C)/6277/2021

BISWAJIT SAIKIA
S/O. LT. LALIT SAIKIA, VILL. KAMARGAON (SONOWAL GAON), P.O.
KAMARGAON, DIST. GOLAGHAT, ASSAM, PIN-785619.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY ITS SECRETARY, DEPTT. OF ELEMENTARY EDUCATION, DISPUR,
GUWAHATI-06.

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

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
GOLAGHAT
PIN-785621.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
GOLAGHAT WEST BLOCK
BOKAKHAT
DIST. GOLAGHAT.

5:PRADIP KR. BORGOHAIN
ASSTT. TEACHER
NA-PATHAR M.E. SCHOOL

GOLAGHAT
P.O. NUMOLIGARH
PIN-785615.

6:SMT. JAYA RAJBONGSHI
ASSTT. TEACHER
NA-PATHAR M.E. SCHOOL
P.O. NUMALIGARH
DIST. GOLAGHAT
PIN-785615.

7:DISTRICT SCRUTINY COMMITTEE
OFFICE OF THE DEPUTY COMMISSIONER
GOLAGHAT
GOLAGHAT DISTRICT
PIN-785621

Advocate for the Petitioner : MR J PAYENG

Advocate for the Respondent : SC, EDU

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 27-01-2023

Heard Ms. C Barman, learned counsel for the petitioner and Mr. NJ Khataniar, learned counsel appearing for the Elementary Education Department. Also heard Ms. G Borah, learned counsel, who appears on behalf of Mr. P Saikia, learned counsel appearing for respondent No. 7. None appears for the respondent Nos. 5 and 6. Upon perusal of the office note dated 06.08.2022, notice is declared to be complete on the respondent Nos.

5 and 6.

2. Having regard to the nature of grievance projected by the petitioner, the writ petition is taken up for disposal at this stage.

3. The case of the petitioner is that he has been illegally denied provincialization of his service in Na-Pathar M.E. School under the West Golaghat Block of Golaghat district. The petitioner was appointed on 20.12.1995 by the School Managing Committee and he joined as Assistant Teacher in the said school. The school came to be recognised by the respondent authorities concerned in the year 2005 and later on in the year 2009-2010, a DISE Code was issued to the school. The school authority forwarded the name of the teachers for provincialization which was then scrutinised by the District Scrutiny Committee and sent to the Director, Elementary Education Department. In the meantime, the respondent No. 5, who was the Headmaster of the school resigned from service and on his resignation, the petitioner was assigned the duty of Headmaster and the Managing Committee of the school requested the respondent authorities for provincialization of service of the petitioner instead of the respondent No. 5.

4. However, when the list of provincialised teachers were uploaded by the Department on 02.05.2021, the petitioner found that the service of the

respondent Nos. 5 and 6 have been provincialized while denying the same to him. According to the petitioner, the respondent No. 5 is not eligible for provincialization as he had resigned from the school and the respondent No. 6 being a Hindi teacher was not eligible to be provincialized in terms of the Assam Education (Provincialization of Services of Teachers and Re-Organization of Educational Institutions) Act, 2017 (Act of 2017) and therefore, being aggrieved the petitioner is before this Court.

5. It may be seen that as per Section 14 of the Act of 2017, the State Level Scrutiny Committee is the appellate authority against any recommendation of the District Scrutiny Committee and the State Government in the concerned Administrative Department is the appellate authority against the recommendation of the State Level Scrutiny Committee.

6. Therefore, having regard to the above provision of law, the writ petition is disposed of with a direction to the petitioner to submit an appeal before the Secretary to the Government of Assam, Department of School Education within a period of 15 (fifteen) days from today by enclosing all such materials that may be required in support of his claim. The Secretary upon receipt of the appeal shall consider the same and dispose of it by way of a Speaking Order, as expeditiously as possible, preferably within a period of 2 (two) months from the

date of receipt of the appeal. The petitioner shall also furnish a copy of the writ petition along with the certified copy of this order to the Secretary to the Government of Assam, Department of School Education.

JUDGE

Comparing Assistant