

GAHC010188972023



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

Case No. : WP(C)/4909/2023

BECHAN LAL CHAUHAN
S/O- RAN BRIJ CHAUHAN, R/O- PUB SILPUTA, RAJAPATHAR TIN-ALI
(SILPUTA), SILPUTA TINIALI, DIST. KARBI ANGLONG, ASSAM

VERSUS

1: THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, SCHOOL
EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR, GHY-6.

2: THE MISSION DIRECTOR AXOM SARBA SIKSHA ABHIJAN MISSION
KAAC DIPHU PIN- 782460.

3: THE DEPUTY COMMISSIONER KARBI ANGLONG P.O. AND DIST. KARBI
ANGLONG ASSAM PIN- 782460.

4: THE DISTRICT MISSION CO-ORDINATOR SSA
-CUM- D.E.E.O. KARBI ANGLONG ASSAM PIN- 782460.

5: THE SMC, BASATIPLONG HINDI M.E. SCHOOL REPRESENTED BY ITS
PRESIDENT NAMELY NIREN DUSAD R/O- VILL. AND P.O. BASATIPLONG
P.S. DOKMOKA DIST. KARBI ANGLONG PIN- 782460

Advocate for the Petitioner : MR. D BHUYAN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 15-12-2023

Heard Mr. D. Bhuyan, learned counsel for the petitioner. Also heard Mr. B.

Kaushik, learned standing counsel, Education (Elementary) Department, representing the respondent No.1; Ms. S. Kemprai, learned standing counsel, Karbi Anglong Autonomous Council, representing the respondent Nos.2 & 4 and Mr. P. Saikia, learned counsel, representing the respondent No.3.

The petitioner, who was initially appointed as an Assistant Teacher on contractual basis in Basatiplong Hindi M.E. School vide a Notification dated 28.05.2012, was serving in the said School since 01.06.2012. The petitioner, in course of discharge of his said duties, was entangled in a criminal case being Dokmoka Police Station Case No.8/2020 registered under Section 376 IPC read with Section 6 of the Protection of Children from Sexual Offences Act, 2012. The petitioner was arrested in connection with the said case on 24.06.2020 and was enlarged on bail on 28.09.2020.

The District Mission Co-ordinator, Sarba Siksha Abhijan, i.e. the respondent No.4, vide his communication dated 29.01.2021 basing on the criminal case instituted against the petitioner terminated his services as a contractual Assistant Teacher.

The petitioner thereafter filed a representation on 23.03.2021 before the respondent No.4 praying for his reengagement. The petitioner thereafter approached the Mission Co-ordinator, Sarba Siksha Abhijan, Karbi Anglong Autonomous Council, Diphu reiterating the said prayer vide his representation dated 05.07.2021. The said 2(two) representations were followed by another representation dated 11.04.2023 made before the Executive Member, In-Charge, Education, Karbi Anglong Autonomous Council, Diphu. The said representations have not received any consideration and the same are pending.

Accordingly, the petitioner has instituted the present proceeding presenting a challenge to the termination order dated 29.01.2021.

It is also contended in the writ petition that persons initially recruited as

Assistant Teacher on contractual basis, like the petitioner, have now been permitted to continue in their services up-to attaining 60 years of age by executing fresh agreements. The petitioner submits that in view of his termination from services, the said benefits extended to the other Assistant Teachers have been denied to him.

I have considered the submissions advanced by the learned counsel appearing for the parties and have perused the materials available on record.

The petitioner, who was initially engaged as an Assistant Teacher on contractual basis continued in his services till the date of his termination, i.e. 29.01.2021. The termination order reflects that the same was so issued solely basing on the criminal case instituted against the petitioner. The said criminal case is yet to be concluded. The termination order does not reflect anything with regard to the quality of work being discharged by the petitioner and the ground as assigned therein casts a stigma upon the petitioner because such action was taken without there being any enquiry being made into the matter.

Be that as it may, the termination having occasioned on 29.01.2021, at this stage, this Court would not like to interfere with the same and accordingly, the petitioner is directed to approach the Mission Director, Sarba Siksha Abhijan (now Samagra Shiksha), Assam by way of an appeal assailing the order of termination dated 29.01.2021. The said appeal be filed within a period of 15(fifteen) days from today along with a certified copy of this order. In the event the petitioner files the said appeal within 15(fifteen) days from today, the Mission Director, SSA, Assam shall take the same on record and consider the same strictly in accordance with law and pass a reasoned order thereon within a period of 45(forty-five) days from the date of receipt of the said appeal. The petitioner in the said appeal shall be at liberty to raise all contentions that may be available to him.

In view of the above observations and directions, the writ petition stands

disposed of. There will be no order as to costs.

JUDGE

Comparing Assistant