

GAHC010245492023



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

Case No. : WP(C)/6117/2021

BAHAZUDDIN MOLLAH
S/O TRIM UDDIN MOLLAH
VILL. SATER ALGA P.O. ASHARIKANDI
DIST. DHUBRI ASSAM PIN 783331

VERSUS

1: THE STATE OF ASSAM AND 6 ORS REPRESENTED BY THE
COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM EDUCATION DEPTT.
(ELEMENTARY) DISPUR GUWAHATI 6

2: THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
DEPTT. OF ELEMENTARY EDUCATION ASSAM DISPUR GUWAHATI 19

3: THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM CUM THE
CHAIRMAN OF STATE LEVEL SCRUTINY COMMITTEE ASSAM
KAHILIPARA GUWAHATI 19

4: THE DIST. SCRUTINY COMMITTEE FOR ELEMENTARY EDUCATION
DHUBRI REPRESENTED BY ITS CHAIRMAN THE DEPUTY COMMISSIONER
DHUBRI ASSAM PIN 783301

5: THE DIST. ELEMENTARY EDUCATION OFFICER
DHUBRI DIST. DHUBRI ASSAM PIN 783301

6: THE BLOCK ELEMENTARY EDUCATION OFFICER
GAURIPUR DIST. DHUBRI ASSAM PIN 783331

7: SUFIA KHATUN
LANGUAGE TEACHER SATER ALGA M.E. MADRASSA VILL. SATER ALGA
P.O. ASHRIKANDI P.S. GAURIPUR DIST. DHUBRI ASSAM PIN 783331

Advocate for : MR. R ISLAM

Advocate for : SC ELEM. EDU appearing for THE STATE OF ASSAM AND 6

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 13-12-2023

Heard Mr. R. Islam, learned counsel for the petitioner. Also heard Mr. B. Talukdar, learned standing counsel, Education (Elementary) Department representing the respondent Nos.1, 2, 3, 5 & 6; Mr. B. Deori, learned Junior Government Advocate, Assam, representing the respondent No.4 and Mr. M.M. Rahman, learned counsel representing the respondent No.7.

The petitioner was appointed as a Hindi Teacher in Sater Alga M.E. Madrassa on 27.11.1992 and he joined his duties on the same date and is continuing in the said capacity till date. It is the case projected by the petitioner that the details of the eligible and qualified teachers of the said School were forwarded to the Director of Elementary Education, Assam, i.e. the respondent No.3, after scrutiny by the District Scrutiny Committee for Elementary Education, Dhubri but the name of the petitioner was so forwarded as a non-recommended teacher due to non-availability of required enrollment of students in the School against the subject he was teaching.

The matters were further processed and the Government approved the recommendation made in the case of respondent No.7 for provincialisation and accordingly, the services of the respondent No.7 were provincialised on 05.02.2021.

Making a challenge to the provincialisation as effected in the case of the respondent No.7, the present proceeding was instituted by the petitioner.

Mr. R. Islam, learned counsel appearing for the petitioner at the outset prays that in view of the dispute involved in the present proceeding, the appeal filed by the petitioner on 13.09.2021 before the Principal Secretary to the Government of Assam, Department of Elementary Education, which is stated to be pending till date, may be directed to be considered and disposed of.

The said prayer is not objected to by Mr. M.M. Rahman, learned counsel representing the respondent No.7.

In view of the aforesaid submission, this writ petition stands disposed of by directing the Secretary to the Government of Assam, School Education Department to take on record the appeal dated 13.09.2021 preferred by the petitioner under Section 14 of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 and dispose of the same within a period of 45(forty-five) days from the date of receipt of a certified copy of this order. The Appellate Authority, while considering the said appeal, shall give a hearing to the petitioner as well as the respondent No.7 and thereafter, make a conclusion on merits of the matter basing on the materials that would come on record in the proceedings of the said appeal.

The *interim* order passed in the present proceeding vide order dated 28.02.2022 shall stand vacated. The respondent No.7 shall be entitled to receive her emoluments in terms of her provincialisation order and the arrears be released to her within a period of 1(one) month from the date of receipt of a certified copy of this order. The provincialisation of the services of the respondent No.7 shall, however, be subject to the order(s) that may be passed by the Appellate Authority in the pending appeal preferred by the petitioner.

With the above observations and directions, the writ petition stands closed.

JUDGE

Comparing Assistant