

GAHC010212682021



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

Case No. : WP(C)/7036/2021

MAHADA SAIKIA
D/O. LT. CHIBEN SAIKIA, VILL. TELIA GARNGA, P.O. MORONGI CHARIALI,
DIST. GOLAGHAT, ASSAM, PIN-785702.

VERSUS

THE STATE OF ASSAM AND 5 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-785612.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
GOLAGHAT NORTH BLOCK-785612.

5:DISTRICT SCRUTINY COMMITTEE FOR ELEMENTARY EDUCATION
REP. BY ITS CHAIRMAN
GOLAGHAT DISTRICT. OFFICE OF THE DEPUTY COMMISSIONER
GOLAGHAT
PIN-785621.

6:TILAK BHARALI
ASSTT. TEACHER
UDAYAN BAGICHA M.E. SCHOOL
GOLAGHAT
P.O. GOLAGHAT
PIN-785621

Advocate for the Petitioner : MR J PAYENG

Advocate for the Respondent : GA, ASSAM

**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 respondent Nos. 1 to 4. Also heard Ms. G Borah, learned counsel, who appears on behalf of Mr. P Saikia, learned counsel appearing for respondent No. 5. None appears for the respondent No. 6. Upon perusal of the Lawazima Court's order dated 22.07.2022, notice is declared to be complete on the respondent No. 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. By filing this writ petition, the petitioner has alleged that she has been illegally denied provincialization of her service in Udayan Bagicha M.E. School, which is under the Deputy Inspector of Schools, Golaghat District. The petitioner joined her service in the year 1996 and the school came to be recognised in the year 2005. Later in the year 2009-2010, DISE Code was issued to the school and the petitioner along with other teachers became

eligible to be considered for provincialization in terms of the Assam Education (Provincialization of Services of Teachers and Re-Organization of Educational Institutions) Act, 2017 (Act of 2017). The School authority forwarded the names of the teachers for provincialization which was scrutinised by the District Scrutiny Committee and sent to the Director, Elementary Education Department. But, when the list of provincialized teachers were uploaded on 02.05.2021 by the authority concerned, the petitioner found that the service of the respondent No. 6 was illegally provincialized while denying such benefit to her. The petitioner being a social science teacher, according to her, the benefit of provincialization should have been given to her and instead it was given to two language teachers *dehors* the Act of 2017. As such, the petitioner being aggrieved is before this Court.

4. 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.

5. 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 her 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