

GAHC010248172022



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

Case No. : WP(C)/6784/2022

DR. JAHURUL HOQUE
S/O LATE NURUL HOQUE
VILL-BARBALA
P.S.-HOWLY
DIST-BARPETA
ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR
GUWAHATI-06

2:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

3:THE STATE SCRUTINY COMMITTEE
REPRESENTED BY THE DIRECTOR
HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

4:THE DISTRICT SCRUTINY COMMITTEE
BARPETA
REPRESENTED BY ITS CHAIRMAN-CUM-DEPUTY COMMISSIONER
BARPETA
P.O. AND DIST- BARPETA
ASSAM
5:THE GOVERNING BODY OF UTTAR COLLEGE

DHANBANDHA
REPRESENTED BY ITS PRESIDENT
C/O THE PRINCIPAL OF UTTAR DHANBANDHA
P.O.-SANKUCHI
DIST- BARPETA
ASSAM
PIN-781314
6:THE PRINCIPAL OF UTTAR BARPETA COLLEGE
DHANBANDHA
P.O.-SANKUCHI
DIST-BARPETA
ASSAM
PIN-781314
7:FARUQUE HASAN SIDDIKI
S/O OMAR ALI
VILL AND P.O.-HOWLY
P.S.-HOWLY
DIST- BARPETA
ASSAM
PIN-781316

Advocate for : MR. R ALI
Advocate for : SC
HIGHER EDU appearing for THE STATE OF ASSAM AND 6 ORS

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

06-01-2023

Heard Mr. R. Ali, learned counsel for the petitioner and Mr. S. Das, learned Standing counsel, Higher Education Department, Assam for the respondent Nos. 1, 2 & 3. Also heard Mr. P. Saikia, learned Government Advocate, Assam for the respondent No. 4; Mr. A. U. Ahmed, learned counsel for the respondent Nos. 5 & 6 and Mr. T. J. Mahanta, learned Senior counsel assisted by Ms. P. Bhattacharya, learned counsel for the respondent No. 7.

Matter pertains to provincialisation of service of the petitioner as an Assistant Lecturer in the Department of Education in Uttar Barpeta College, Dhanbandha Sankuchi, District- Barpeta.

Petitioner is seeking provincialisation of his service as an Assistant Professor in the Department of Education in Uttar Barpeta College, Dhanbandha, Barpeta under the provisions of the Assam Venture Educational Institution (Provincialisation of Services) Act, 2011 as amended and challenged the process of the respondent authorities in taking steps for provincialisation of the service of the respondent No. 7 as an Assistant Lecturer in the Department of Education in said College under the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017, as amended disregarding his better claim.

It is to be noted herein that pursuant to the approval of the State Government in the Higher Education Department, the Director of Higher Education, Assam vide order No. PC/HE/VEN.EDNL. (57)/3/2014/60 dated 26.05.2014 provincialised the services of the teaching and non-teaching staff of said Uttar Barpeta College, Barpeta w.e.f. 14.08.2013 approving the provincialisation of one Dr. Abdul Kaddus Khan as Assistant Professor of Education of said College who joined the said College on 28.12.1998 and not provincialising the service of any other Lecturers in the Department of Education of said College.

The Court while issuing notice to the respondents on 27.10.2022, in the interim directed the respondents not to provincialise the service of the respondent No. 7.

Against the same, the respondent No. 7 has preferred the connected Interlocutory Application being I.A.(C) No. 3596/2022 for modification/ alteration/vacation of the ex-parte order dated 27.10.2022 passed in this proceeding.

Though this writ petition was listed with the connected I.A.(C) No. 3596/2022, on 14.12.2022 and 21.12.2022, but the interim order dated 27.10.2022 passed earlier in this proceeding was not extended.

Moreover, during the deliberation of the matter, Mr. Ahmed, learned counsel for the respondent Nos. 5 & 6, submits that the Principal of said Uttar Barpeta College, Barpeta had terminated the service of the petitioner on 10.12.2022 and that such termination of the petitioner on 10.12.2022 from the said College as a Lecturer of Education Department was made after due enquiry.

In view of the termination of the petitioner dated 10.12.2022, this writ petition being infructuous, stands closed.

Needless to say that as the interim order passed earlier on 27.10.2022 was not extended by the Court on 14.12.2022 & 21.12.2022, noted above, the same is no longer in force.

It is made clear that if the petitioner prefers to challenge the termination order dated 10.12.2022, if so advised, and his such termination order is set aside by the appropriate forum, in that circumstance, the petitioner may approach the authority concerned for reconsideration of his case for provincialisation in accordance with law after any such advice.

JUDGE

Comparing Assistant