

GAHC010218822022



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

Case No. : WP(C)/6907/2022

SHAHAJAHAN ALI KHAN
S/O MAHIR UDDIN KHAN, R/O VILL-KALJHAR, P.O.-BARBALA, P.S.-
HOWLY, DIST- BARPETA, ASSAM, PIN-781316

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR, GHY-06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE DEPUTY COMMISSIONER
SOUTH SALMARA MANKACHAR
ASSAM
PIN-

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER (DEEO)
SOUTH SALMARA MANKACHAR
ASSAM

5:THE BLOCK ELEMENTARY EDUCATION OFFICER (BEEO)
SOUTH SALMARA EDUCATION BLOCK
DIST-SOUTH SALMARA MANKACHAR
ASSAM

6:THE ASSAM SAMAGRA SHIKSHA ABHIYAN
REPRESENTED BY THE MISSION DIRECTOR OF ASSAM
KAHILIPARA

GHY-19

7:THE DISTRICT MISSION CO-ORDINATOR
SSA
SOUTH SALMARA MANKACHAR
ASSAM
PIN-

8:THE BLOCK MISSION CO-ORDINATOR
SOUTH SALMARA EDUCATION BLOCK
ASSA

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

10/01/2023

Heard Mr. M U Mondal, learned counsel for the petitioner and Mr. G Pegu, learned Standing counsel, Department of School Education (Elementary), Assam for the respondent Nos. 1, 2 & 5. Also heard Ms. D Das Barman, learned Government Advocate, Assam for the respondent No. 3 and Mr. B Choudhury, learned Standing counsel, SSA, Assam for the respondent Nos. 6 to 8.

Petitioner, a contractual Assistant Teacher, serving in the District of Dhubri and posted at 423 No. Satdubi Lower Primary School on 19.05.2012 by the Mission Director, SSA, Assam.

By order No. SSA/BMC/SS/Esst/01/2016/104A dated 12.09.2022, the Block Mission Coordinator, SSA, South Salmara Block pursuant to the Government letter No. SSA/MIS/UDISE/1192/2017/1684 dated 17.08.2022 and the letter of the Additional Deputy Commissioner (Education) cum District Mission Coordinator, SSA, South Salmara, Mankachar dated 06.09.2022 transferred the petitioner from 423 No. Satdubi Lower Primary School to 2116 No. Katdanga Kharapara Lower Primary School within the same Education Block.

Being aggrieved with such transfer, the petitioner on 17.09.2022 submitted a representation

before the BEEO, South Salmara Education Block, which is yet to be disposed of.

Pursuant to the order 04.01.2023, Mr. B Choudhury, learned Standing counsel, SSA placing the relevant information submitted before the Court that the SSA, Assam after considering the relevant information from the Districts concerned and finding that there are 876 nos. of Single Teacher Schools, where there is a requirement of more than one teacher and as such, it took a decision to prepare a list of Contractual/State Pool Teachers against proposed schools for Zero Teacher School as well as for Single Teacher School. As such, petitioner's name was included in the list of Contractual Teachers to be attached to Single Teacher School and accordingly, the petitioner was transferred from 423 No. Satdubi Lower Primary School to 2116 No. Katdanga Kharapara Lower Primary School within South Salmara Education Block.

From the relevant information placed before the Court, it has also been pointed out by the authorities of the SSA, Assam that in 423 No. Satdubi Lower Primary School, there are altogether 121 nos. of students having 5 nos. of teachers, where the PTR is 24:2, but in 2116 No. Katdanga Kharapara Lower Primary School, there are 101 nos. of students having only one teacher. Considering the same, the petitioner has been transferred from said 423 No. Satdubi Lower Primary School to 2116 No. Katdanga Kharapara Lower Primary School in the South Salmara Education Block in the interest of its students.

After hearing the parties and considering the entire aspects of the matter and finding that the petitioner has been transferred from 423 No. Satdubi Lower Primary School to 2116 No. Katdanga Kharapara Lower Primary School by the impugned order dated 12.09.2022 in pursuance of the Government letter dated 17.08.2022 and the letter of the Additional Deputy Commissioner (Education) cum District Mission Coordinator, SSA, South Salmara, Mankachar dated 06.09.2022 so as to cater the need of the students.

In view of the above, the petitioner is directed to submit a fresh representation before the Mission Director, Samagra Siksha, Assam/Axom Sarba Siksha Abhiyan Mission with regard to redressal of his grievances against the impugned order of transfer dated 12.09.2022 transferring him from 423 No. Satdubi Lower Primary School to 2116 No. Katdanga Kharapara Lower Primary School.

In his such representation, the petitioner, if so advised, may state about the provisions of Section 7 of the Assam Elementary and Secondary School Teachers' (Regulation of Posting and Transfer) Act, 2020 that pertains to Inter District transfer norms of teachers serving continuously for

10 years or more, who can apply for transfer to his/her home District or to a nearest contiguous District.

In the event of filing such representation by the petitioner for redressal of his grievances, the Mission Director, Samagra Siksha, Assam/Axom Sarba Siksha Abhiyan Mission shall dispose of the same within a period of 60 days from the date of its receipt, intimating the petitioner about the outcome of his said representation.

With the above observation and direction, this writ petition stands disposed of.

The relevant information of SSA, Assam dated 09.01.2023 placed before the Court today by Mr. B Choudhury, learned Standing counsel, SSA, Assam be kept as part of record.

JUDGE

Comparing Assistant