

GAHC010222322021



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

Case No. : WP(C)/7201/2021

DIPAK GHOSH
S/O. LT. DULAL CH. GHOSH, VILL. KHELMA, PART-VI, P.O. GUMRA BAZAR,
P.S. KATIGORAH, DIST. CACHAR, ASSAM, PIN-788815.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMM. AND SEYC. TO THE GOVT. OF ASSAM, ELEMENTARY
EDUCATION DEPTT., DISPUR, ASSAM, GUWAHATI-781006.

2:THE STATE LEVEL SCRUTINY COMMITTEE
REP. BY THE CHAIRMAN CUM THE DIRECTOR OF ELEMENTARY OF
EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019.

3:THE DISTRICT SCRUTINY COMMITTEE
REP. BY THE CHAIRMAN CUM THE DEPUTY COMMISSIONER
CACHAR DIST. CACHAR ASSAM PIN-788001.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER CACHAR SILCHAR
DIST. CACHAR ASSAM PIN-788001.

5:NIBARAN CHANDRA DAS S/O. NIRODH CHANDRA DAS
VILL. CHALLIGRAM P.O. KALAIN DIST. CACHAR ASSAM PIN-788815

Advocate for the Petitioner : MR J ABEDIN
Advocate for the Respondent : SC, ELEM. EDU

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

ORDER

Date : 13.12.2023

Heard Mr. J. Abedin, learned counsel for the petitioner. Also heard Mr. G. Pegu, learned standing counsel, appearing on behalf of respondents No. 1, 2 & 4; Mr. B. Deori, learned standing counsel, appearing on behalf of respondent No. 3; and Mr. I. Islam, learned counsel, appearing on behalf of respondent No. 5.

The writ petitioner being aggrieved by non-provincialization of his case under the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, has instituted the present proceeding, wherein, he has also assailed the provincialization effected in the case of respondent No. 5.

The petitioner contends that he was initially appointed as the Headmaster of Kandigram Schedule Caste M.E. School, Cachar, and he has been working in the said school since 08.01.1993. The case of the teachers working in the said school were taken-up for consideration for provincialization under the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, and it was under the signature of the petitioner that the particulars of the teachers were forwarded to the respondent authorities. However, the name of the petitioner was not found in the list of teachers found eligible for provincialization. Accordingly, the petitioner submitted an application before the Deputy Commissioner, Cachar, praying for re-consideration to be made in his case. The District Elementary Education Officer, Cachar, had also vide his

communication, dated 12.02.2021, intimated the Director, Elementary Education, Government of Assam, that the petitioner's case was required to be considered for provincialization.

Section 14 of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, provides for an appeal before the authorities therein in the event, an employee is aggrieved by any of the recommendations made either by the District Level Scrutiny Committee(DLSC) or the State Level Scrutiny Committee(SLSC). It is seen that the petitioner has not preferred any appeal availing the provisions of Section 14 of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, till date, and in that view of the matter; Mr. Abedin, learned counsel for the petitioner, has fairly submitted that the petitioner may be permitted to submit an appeal under Section 14 of the said Act.

In view of the aforesaid submission, this writ petition is hereby disposed of, requiring the petitioner to prefer an appeal under Section 14 of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, before the Government in the School Education Department, within a period of 3(three) weeks from today.

The appellate authority, on receipt of such an appeal, shall consider the same and for the said purpose, an opportunity of hearing, both to the writ petitioner as well as the respondent No. 5 may be afforded. The appellate authority may also take into account, the communication, dated 12.02.2021(Annexure-13 to the writ petition).

The decision that may be arrived in the appeal be communicated to the petitioner forthwith.

The provincialization in respect of the respondent No. 5 already effected in Kandigram S/C M.E. School, Cachar, shall be subject to the outcome of the petitioner's appeal and basing on the decision thereon, further necessary action that may be called for, be taken by the authorities concerned.

With the above directions, the writ petition stands disposed of. There shall be no order as to costs.

JUDGE

Comparing Assistant