

GAHC010227952021



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

Case No. : WP(C)/68/2022

RAJIA BEGOM LASKAR
HEAD TEACHER OF SASHI BUSHAN MEMORIAL L.P. SCHOOL, VILL-
NUNAI (FOREST VILLAGE), P.O.-KACHAITHAL, P.S.-LALA, DIST-
HAILAKANDI, ASSAM, PIN-788163

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY SECRETARY TO THE GOVT. OF ASSAM, ELEMENTARY
EDUCATION DEPARTMENT, DISPUR, P.O. AND P.S.-DISPUR, DIST-
KAMRUP(M), ASSAM, PIN-781006

2:THE DIRECTOR ELEMENTARY EDUCATION DEPARTMENT
ASSAM
KAHILIPARA
P.O. AND P.S.-KAHILIPARA
DIST- KAMRUP(M)
ASSAM
GUWAHATI-781019

3:THE MISSION DIRECTOR
AXOM SARBA SIKSHA ABHIYAN MISSION
KAHILIPARA
P.O. AND P.S.-KAHILIPARA
DIST- KAMRUP(M)
ASSAM
GUWAHATI-781019

4:THE DEPUTY COMMISSIONER

HAILAKANDI
P.O.
P.S. AND DIST- HAILAKANDI
ASSAM
GUWAHATI-788151

5:DEPUTY INSPECTOR OF SCHOOL
HAILAKANDI
P.O.
P.S. AND DIST- HAILAKANDI
ASSAM
PIN-788151

6:THE DISTRICT MISSION CO-ORDINATOR
AXOM SARBA SIKSHA ABHIYAN MISSION
HAILAKANDI
P.O.
P.S. AND DIST- HAILAKANDI
ASSAM
PIN-788151

7:THE BLOCK ELEMENTARY EDUCATION OFFICER
LALA
AND BLOCK MISSION CO-ORDINATOR
AXOM SARBA SIKSHA ABHIYAN MISSION
LALA
P.O. AND P.S.-LALA
DIST- HAILAKANDI
ASSAM
PIN-788151

8:THE NATIONAL INSTITUTE OF EDUCATIONAL PLANNING AND
ADMINISTRATION
REP. BY REGISTRAR
MINISTRY OF EDUCATION
NEW DELHI 110016
17-B
SRI AUROBINDO MARG
NCERT CAMPUS
KATWARIA SARAI

Advocate for the Petitioner : MR. A H ALAMGIR

Advocate for the Respondent : SC, ELEM. EDU

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

ORDER

Date : 14.12.2023

Heard Mr. A. H. Alamgir, learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned standing counsel, Elementary Education Department, Government of Assam.

The petitioner by way of instituting the present proceeding, has raised a grievance with regard to non-consideration of her case for provincialization on account of the fact that the name of the petitioner was recorded as "R. U. Laskar" in the DISE Code of 2006-07 to 2011-12. The actual name of the petitioner is "Rajia Begom Laskar" and the said name figures in the DISE Code with effect from 2013-14 onwards.

As per the projected case in the writ petition, the petitioner was initially appointed as the Head Teacher of "Sashi Bhusan Memorial L.P. School" on 30.12.1997 and it is the contention of the petitioner that she is continuing in the said capacity in the school in question.

The cases of the petitioner and other similarly situated persons were considered

by the District Level Scrutiny Committee(DLSC) under the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, in its meeting held on 31.12.2018 and the said committee had recommended the case of the petitioner for provincialization.

However, after the matter was subjected to further scrutiny by State Level Scrutiny Committee(SLSC), it was brought to the light that the name of the petitioner did not appear in the DISE Data of the School for the years 2006-07 till 2011-12. Basing on the said disclosure, a doubt arose as to whether "Rajia Begom Laskar" whose name was recommended by the District Level Scrutiny Committee (DLSC) is the same person who functioned in the school in question, in the name of "R. U. Laskar" from 2006-07 till 2011-12 and accordingly, the process of provincialization of the services of the petitioner was not taken to its logical conclusion.

On a query being put to the learned counsel for the petitioner to demonstrate as to whether there is available on record any material which would conclusively prove that it was the petitioner, herein, who was working in the said school from the date of her initial appointment or at least, from 2006-07, Mr. Alamgir, learned counsel for the petitioner, has submitted that the documents annexed to the petitioner would show that it is the petitioner herein, who was appointed in the year 1997 in the school in question as "Rajia Begom Laskar" and there is no other claimant by the name "R. U. Laskar" available for the said post involved, in the school.

Mr. B. Gogoi, learned standing counsel, Elementary Education Department, Government of Assam, has submitted that the data that is captured in the DISE Code is the one which originally emanates from the school and the petitioner who has projected herself to be the Head Teacher of the school in question, would not have projected her name in a wrong manner, so a doubt arises as to whether the petitioner "Rajia Begom Laskar" was continuing in the said school or "R. U. Laskar" as appearing in the DISE Code of 2006-07 till 2012-13, is some other person, who was working in the School.

I have heard the submissions advanced by the learned counsels appearing for the parties and also perused the materials placed on record.

The contentions of the parties and the materials placed on record do not conclusively establish the fact that the names of "R. U. Laskar" and "Rajia Begom Laskar" belong to one and the same person i.e. the petitioner herein although the initial order of appointment of the petitioner available on records, demonstrates that her name therein, was recorded as "Rajia Begom Laskar". In the absence of any concrete material available on record, this Court is not in a position to hold that both "R. U. Laskar" and "Rajia Begom Laskar" is the name of one and the same person i.e. the petitioner, herein.

At the same time, given the documents pertaining to the initial order of appointment of the petitioner in the said school, this Court is also not in a position to conclusively say that it is not the petitioner, herein, but somebody else who was working in the said school by the name of "R. U. Laskar".

The disputed question arising in the present proceeding cannot be resolved on the basis of the affidavits filed by the parties in the petition and would call for a detailed examination of the facts basing on documentary as well as oral evidence, which is not possible in the present proceeding.

Accordingly, I, direct the Director, Elementary Education Department, Government of Assam, to conduct a detailed inquiry into the matter in collaboration with the authorities of the Samagra Shiksha, Assam, along with the district authorities of the Elementary Education Department of Hailakandi District and after receiving evidences that may come on record, both documentary and oral, as well as after providing due opportunity of hearing to the parties; the Director, Elementary Education Department, Government of Assam, shall arrive at a conclusion as to whether it is the petitioner "Rajia Begom Laskar" who is the person working in the school in question, from 1997 till date, or "R. U. Laskar" as figuring in the DISE Code of 2006-07 to 2011-12, is some other person and not the petitioner. Further determination that would also be required is whether the names "R. U. Laskar" and "Rajia Begom Laskar" belongs to one and the same person.

The conclusion shall be arrived at by the Director, Elementary Education Department, Government of Assam, within a period of 3(three) months from the date of receipt of a certified copy of this order.

Basing on the conclusion that may be arrived at, further processing for provincialization of the petitioner's services may be carried-out. The decision so arrived in the inquiry directed to be carried-out, be reduced in the form of a speaking order and the same be communicated to the petitioner forthwith on completion of the inquiry.

With the above directions, the writ petition stands disposed of to the extent as indicated above.

JUDGE

Comparing Assistant