

GAHC010230842023



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

Case No. : WP(C)/6034/2023

SHOMSIDA BEGUM
W/O JAMAL UDDIN, R/O VILL- OKSEK TRISHGHORI, P.O. AND P.S.-
MURAJHAR, DIST-HOJAI, ASSAM, PIN-782439

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, GOVT. OF
ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
DISPUR
GUWAHATI-19

3:THE MISSION DIRECTOR
SSA
ASSAM
KAHILIPARA
DISPUR
GUWAHATI-19

4:THE DISTRICT MISSION COORDINATOR
SSA
HOJAI
PAM GAON
DIST- HOJAI
ASSAM
PIN-782442

5:THE DISTRICT MISSION COORDINATOR

SSA
NAGAON
DIST-NAGAON
ASSAM
PIN-782001

6:THE HEAD MASTER
PUB FUTALZAR 3 NO. MAQTAB VIDYALAYA
VILL- PUB PHUTALZAR
LOWKHOWA EDUCATION BLOCK
DIST- NAGAON
ASSAM
PIN-782124

7:THE HEAD MASTER
TRISHGHORI CHUBURI NEW L.P. SCHOOL
VILL- OKSEK TRISHGORI
LANKA EDUCATION BLOCK
DIST- HOJAI
ASSAM
PIN-78243

For the Petitioner (s) : Mr. M.U. Mahmud, Advocate.

For the Respondent (s): Mr. P. Nayak, Advocate.

Mr. P.N. Sarma, Advocate.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

10.11.2023

The instant writ petition has been filed by the Petitioner being aggrieved by the inaction on the part of the Respondent Authorities in not considering the request of the Petitioner for transfer from Pub Fultazar 3 No. Maqtab Vidyalaya in the District of Nagaon to any school in the District of Hojai or to any other school nearby to her residence.

2. The case of the Petitioner as could be seen from a perusal of the writ petition is that she is working as the 2nd Siksha Mitra in Trishghori Chuburi New L.P. School (EGS Centre) since 2006 and thereafter her post was regularized as an Assistant Teacher and was appointed as an Assistant Teacher in Lower Primary School and was posted at Pub Fultazar 3 No. Maqtab Vidyalaya in the District of Nagaon by an order dated 12.09.2017 issued by the Mission Director, SSA, Assam. It is the further case of the Petitioner that the Petitioner is a resident of Village-Oksek Trishghori, Hojai and as she has been posted at Nagaon which is at a distance of 120 km, it is difficult for her to function as the teacher inasmuch as she has to start for the School at 6 AM and returns back home at 9.30 PM. It is under such circumstances, the Petitioner had submitted representations on 29.12.2017 and 10.05.2018 before the Deputy Commissioner, Nagaon and the District Elementary Education Officer, Nagaon as well as the District Mission Coordinator, Nagaon praying inter alia for transfer from the said school where she is serving to any other school nearby to her residence in the District of Hojai. It has been also mentioned that the Petitioner had also filed another application on 16.05.2018 for inter-district transfer of the School Teacher before the concerned Authority regarding her transfer to a school nearby to her residence. On 15.06.2019, the District Mission Coordinator, SSA, Nagaon vide an order 15.06.2019 itself allowed her application and proposed to the

Mission Director, SSA, Assam to transfer the Petitioner from Pub Fultazar 3 No. Maqtab under Lowkhowa Education Block, Nagaon to the District of Hojai. However, inspite of that nothing has happened, for which the Petitioner have been constrained to approach this Court under Article 226 of the Constitution.

3. Mr. P. Nayak, the learned counsel appearing on behalf of the Sarba Siksha Abhijan i.e. the Respondent Nos. 3 & 5 submits that in respect to those teachers appointed under the Sarba Siksha Abhijan, the provisions of the Assam Elementary and Secondary School Teachers (Regulation of Posting and Transfer) Act, 2020 (hereinafter for short referred to as 'the Act of 2020') is applicable and as such the Petitioner is therefore required now to file an application by online mode for being considered for transfer, if the Petitioner comes within the ambit of the grounds stipulated in Section 10 of the Act of 2020.

4. This Court upon hearing the learned counsel for the parties and taking into account that the Act of 2020 which specifically stipulates the manner in which the transfers can be applied and affected, it is of the opinion of this Court that the Petitioner is required to apply for transfer in terms with the provisions of the Act of 2020 and accordingly grants the liberty to the Petitioner to file an application in online mode under the provisions of the Act of 2020. This Court further taking into account the difficulties so faced by the Petitioner and also the recommendation dated 15.06.2019 whereby there was a

recommendation to transfer the Petitioner to the District of Hojai, directs the Deputy Commissioner, Nagaon to look into the case of the Petitioner in terms with Section 9 of the Act of 2020 and thereupon shall consider the same as per the provisions of the Act of 2020. This Court further directs the Mission Director, SSA, Assam, Kahilipara, Guwahati i.e. the Respondent No. 3 to consider the case of the Petitioner on the basis of the provisions of the Act of 2020. The said exercise be carried out as expeditiously as possible and preferably within a period of 6 months from the date of application filed by the Petitioner in the online mode.

5. With the above observations and directions, the instant writ petition stands disposed off.

JUDGE

Comparing Assistant