

GAHC010232832023



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

Case No. : WP(C)/6127/2023

ABDUL MAZID PRODHANI
S/O LT. SHAHAJAHAN ALI PRODHANI,
VILL-BERBHANGI PT-III, P.O.-DIMAKURI,
P.S.-GOLAKGANJ, DIST-DHUBRI, ASSAM, PIN-783334

VERSUS

1: THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY), DISPUR,
GUWAHATI-06

2: THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM
-CUM- CHAIRMAN OF STATE LEVEL SCRUTINY COMMITTEE
ELEMENTARY EDUCATION ASSAM KAHILIPARA GUWAHATI-19

3: THE DEPUTY COMMISSIONER -CUM- CHAIRMAN OF DISTRICT
SCRUTINY COMMITTEE DHUBRI P.O.-DHUBRI DIST-DHUBRI ASSAM
PIN-783301

4: THE DISTRICT ELEMENTARY EDUCATION OFFICER -CUM- MEMBER
SECRETARY OF DISTRICT SCRUTINY COMMITTEE DH P.O.-DHUBRI
DIST-DHUBRI ASSAM PIN-783301

5: THE BLOCK ELEMENTARY EDUCATION OFFICER
GOLAKGANJ P.O.-GOLAKGANJ DIST-DHUBRI ASSAM PIN-78333

Advocate for the Petitioner : MR. M R KHANDAKAR

Advocate for the Respondent : SC, ELEM. EDU

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

ORDER

Date : 15-12-2023

Heard Mr. M.R. Khandakar, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned standing counsel, Education (Elementary) Department, representing the respondent Nos.1, 2, 4 & 5 and Mr. B. Deori, learned Junior Government Advocate, Assam, representing the respondent No.3.

The petitioner was appointed as the Headmaster of Pachim Gaikhowa M.E. School on 24.12.1994 and it is his contention that he is continuing as such in the said School. The petitioner, in addition to his duties as the Headmaster of the said School, was also teaching Language subject. The cases of the employees of the said School were taken up for provincialisation under the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 (hereinafter referred to as the "2017 Act").

The District Scrutiny Committee, Dhubri, on consideration of the matter, recommended the name of one Santiram Barman as Language Teacher and the case of the petitioner was not favourably recommended. The matter then came to be placed before the State Scrutiny Committee and the name of Santiram Barman was finally approved.

Thereafter, the petitioner by way of instituting WP(C) No.2045/2022 approached this Court making a grievance against denial of the benefits of provincialisation to him. This Court, vide order dated 25.03.2022, proceeded to dispose of the said writ petition with a direction to the authorities to pass a reasoned order thereon.

The Director of Elementary Education, Assam, on consideration of the

representation preferred by the petitioner, proceeded vide order dated 28.09.2022 to reject his such claim on the ground that the District Scrutiny Committee had already recommended 3(three) teachers against Pachim Gaikhowa M.E. School for provincialisation of their services after following due procedure as laid down in the 2017 Act.

I have heard the learned counsel appearing for the parties and have perused the materials available on record.

It is stated at the bar that the process initiated for provincialising the services of the employees of Pachim Gaikhowa M.E. School after being considered by the bodies mandated under the Act led to issuance of an order of provincialisation, wherein the services of Santiram Barman was also provincialised on 04.02.2021. It is to be noted at this stage that the said Santiram Barman had passed away on 06.01.2020 during the period when the proposal for provincialisation of the services of eligible teachers in Pachim Gaikhowa M.E. School was in process. Pursuant to the death of said Santiram Barman, the District Scrutiny Committee had re-examined the proposal in view of the development taken place and thereafter, on 16.11.2021, had submitted a revised proposal wherein the name of the petitioner as Language Teacher was recommended against the name of deceased Santiram Barman.

The said recommendations of the District Scrutiny Committee was forwarded by the District Elementary Education Officer, Dhubri vide his communication dated 24.12.2021 to the Director of Elementary Education, Assam. In spite of the said position and also having knowledge that the said Santiram Barman had since deceased before the process of provincialisation of the services of the eligible incumbents in the said School could be taken to its logical conclusion, the respondent No.2, ignoring the said fact, has proceeded to

issue the impugned order dated 28.09.2022. The respondent No.2 having not considered the factors relevant to the issue, which were to be taken note of for the purpose of determining the claim of the petitioner, the order dated 28.09.2022 stands vitiated. The said order dated 28.09.2022 accordingly stands interfered with.

The respondent No.2., i.e. the Director of Elementary Education, Assam, is directed to give a fresh consideration to the claim of the petitioner in the light of the directions passed by this Court vide order dated 25.03.2022 in WP(C) No.2045/2022 by taking into account the revised recommendation made by the District Scrutiny Committee on 16.11.2021 and forwarded to the Director, Elementary Education, Assam by the District Elementary Education Officer vide communication dated 24.12.2021. The said exercise now required to be carried out shall be expeditiously carried out and concluded on a date not later than 2(two) months from the date of receipt of a certified copy of this order. The petitioner is required to submit a certified copy of this order before the Director of Elementary Education, Assam.

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

JUDGE

Comparing Assistant