

GAHC010241872023



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

Case No. : WP(C)/6468/2023

JESMINA AHMED AND 2 ORS.
W/O- DR. RAZAUL HOQUE, VILL.- MOIRAMARA, P.O. DABALIAPRA, P.S.
HOWLY, DIST. BARPETA, ASSAM

2: RANJU KALITA
W/O- LATE PRASANTA ADHIKARY
R/O- SONDARDIYA
P.O. SANDARDIYA
DIST. BARPETA
ASSAM

3: SAHJAHAN ALI KHAN
S/O- LATE ABDUL KADER KHAN
VILL.- BONMAJA PATHER
P.O. BILASHIPARA BAZAR
DIST. BAKSA (BTR)
ASSA

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GHY-06.

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM-CUM-CHAIRMAN OF THE STATE SCRUTINY COMMITTEE
KAHILIPARA
GHY-19.

3:THE INSPECTOR OF SCHOOL
B.D.C.

BARPETA

P.O. AND DIST. BARPETA
ASSAM

4:THE DISTRICT SCRUTINY COMMITTEE
REPRESENTED BY THE DEPUTY COMMISSIONER
BARPETA CUM CHAIRMAN DISTRICT SCRUTINY COMMITTEE
BARPETA

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

12.12.2023

Heard Mr. R Ali, learned counsel for the petitioners. Also heard Mr. P Saikia, learned counsel for the Deputy Commissioner, Barpeta and Mr. B Kaushik, learned counsel for the Secondary Education Department, Government of Assam.

2. The petitioners herein are all teachers in the Milan Jyoti Junior College, Itervita which was established in the year 1997. The petitioners are aggrieved to the extent that their claim for provincialisation under the *Assam Education (Provincialisation) of Services of Teachers and Re-organization of Educational Institution Act, 2017* (for short, Act of 2017) was rejected by the State Level Scrutiny Committee on the ground that the service particulars of the teachers of the school were not captured in the DISE code and therefore, they were ineligible for provincialisation. The rejection cannot be said to be wholly incorrect *inasmuch as*, Section 3(1)(xii) of the Act of 2017 provides for a pre-

condition that in order to be provincialised there is also a necessity of the particulars of the teachers being captured in the DISE code. But, however, it is stated that there are certain schools which factually along with the teachers may exist, but because of certain other exigencies their information were not captured in the DISE code and to that extent there is a judgment of this Court dated 12.04.2023 in WP(C)No.1353/2022 and other writ petitions.

3. It is also stated that being aggrieved by the rejection for provincialisation, an appeal under Section 14 of the Act of 2017 has also been preferred by the writ petitioners before the Secretary to the Government of Assam in the School Education Department.

4. As an appeal had already been filed by the petitioners on the same grievance, we are of the view that the interest of justice would be met on a direction being issued to the appellate authority to give a consideration to the appeal filed by the petitioners and pass a reasoned order thereon and in doing so as for the issue that the particulars of the teachers were not captured in the DISE code, the judgment dated 12.04.2023 in WP(C)No.1353/2022 may also be taken note of by the appellate authority.

5. The above exercise be done within a period of three months from the date of receipt of a certified copy of this order.

6. The petitioners are also allowed to file a substituted memo of appeal in addition to the earlier appeal filed by them to substantiate their grievance.

7. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant