

GAHC010248642022



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

Case No. : WP(C)/7860/2022

SMTI. DIPTI HAZARIKA
W/O LT. PABITRA KUMAR DUTTA, R/O BAPAPUNG SETTLEMENT AREA,
P.O. AND P.S.-DIGBOI, DIST-TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF EDUCATION, SACHIVALAYA,
DISPUR, GUWAHATI-6

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

3:INSPECTOR OF SCHOOL
TINSUKIA
ASSAM

4:THE MANAGING COMMITTEE OF BHIMPATHER BAPUJI HIGH SCHOOL
REPRESENTED BY ITS SECRETARY
DIGBOI
TINSUKIA
ASSAM

5:THE DISTRICT LEVEL SCRUTINY COMMITTEE
REPRESENTED HEREIN BY THE DEPUTY COMMISSIONER
TINSUKIA
ASSAM

6:AXOM SARBA SIKSHA ABHIYAN MISSION

REPRESENTED HERIN BY ITS MISSION DIRECTOR. KAHILIPARA

GUWAHATI-781019
ASSAM.

7:NATIONAL UNIVERSITY FOR EDUCATION PLANNING ADMINISTRATION
(NUEPA)
REPRESENTED BY THE MINISTRY OF HUMAN RESOURCES
DEVELOPMENT
GOVERNMENT OF INDIA

Advocate for the Petitioner : MR S BORTHAKUR
Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

Date : 08-12-2023

JUDGMENT & ORDER (ORAL)

Heard Mr. S Borthakur, learned counsel for the petitioner, Mr. U Sarma, learned counsel for the respondents in the Secondary Education Department, Government of Assam, Mr. P Saikia, learned Junior Government Advocate for the Deputy Commissioner, Tinsukia, Mr. A Chaliha, learned counsel for the SSA and Mr. K Gogoi, learned counsel for the respondents in the NEUPA.

2. The petitioner states that he was appointed as an Assistant Teacher in the Bhimpathar Bapuji High School as per the resolution Nos. 2 and 3 of the Managing Committee dated 06.06.1994 and upon joining, she was allotted to discharge the duties as a Science Teacher. The petitioner was subjected to the process of provincialisation under the Assam Education (Provincialisation of Services of Teachers and re-organization of Educational Institutions) Act, 2017 (in short Act of 2017).

3. In the DISE data maintained by the respondent authorities, the name of the petitioner is depicted as Dipti Dutta, which is the name of the petitioner after

her marriage. The maiden name of the petitioner is Dipti Hazarika and while she was appointed in 1994, her name was recorded as Dipti Hazarika and in the resultant circumstance, when her claim for provincialisation was processed, the school authorities had send the particulars by showing her name to the Dipti Hazarika. But, as there is a mismatch of the name with the records sent by the school authorities and that of the records maintained in the DISE data, the process for provincialisation of the petitioner has been stalled.

4. No material has been placed before us that Dipti Hazarika and Dipti Dutta are two different persons, which requires an adjudication as to who between the two has to be provincialised. All that had happened is that as because the petitioner had acquired the marital name after her marriage as Dipti Dutta, the DISE Data that were captured at that relevant point of time showed her to be Dipti Dutta whereas while sending the particulars, the school authorities dealt upon the original record of appointment which contains the name to be Dipti Hazarika and accordingly, send the particulars as Dipti Hazarika.

5. The said aspect can be resolved by the Secretary to the Government of Assam in the Secondary Education Department, by conducting an enquiry as to whether Dipti Dutta and Dipti Hazarika are two different persons and if they are not two different persons and it is a continuation of the name of the petitioner which was originally Dipti Hazarika and later on it is Dipti Dutta, appropriate orders may be passed.

6. We are conscious of the aspect that as per Section 3 (1)(xii) of the Act of 2017, there is also a requirement that the name of the teacher who is sought to be provincialised must also be available in the DISE code that is maintained by the system which apparently appears to be a provision to rule out the possibility of any ineligible persons from being provincialised. But, when it is the case of a

genuine grievance of it being the same person, but at different stages recognized under two names inasmuch her maiden name and marital name are different, the matter would definitely have to be considered otherwise. Section 20 of the Act of 2017 give the power to the State Government to do anything not inconsistent with the provision of Act and Rules framed there-under and whenever it is necessary and expedient for the purpose to remove any difficulties.

7. The present dispute appears to be a kind of a dispute which can be appropriately resolved by the authorities in the Government by making a factual verification as to whether Dipti Hazarika and Dipti Dutta are two different person or they are one and the same person. If they are one and the same person, we see no reason as to why the power under section 20 of the Act of 2017 should not be invoked.

8. Accordingly, the Secretary to the Government of Assam in the Secondary Education Department shall do the needful as stated above, and if necessary, by giving a hearing to the petitioner as well as to all other parties who may be involved in the matter. The requirement be done by the Secretary within a period of three months from the date of receipt of a certified copy of this order.

The writ petition is disposed of as indicated above.

JUDGE

Comparing Assistant