

GAHC010267352022



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

Case No. : WP(C)/45/2023

BIBHU GOALA
S/O- LATE SHANKAR GOALA,
VILL- KASHIPUR, PART-I,
P.O.- KASHIPUR,
DIST.- CACHAR, ASSAM,
PIN- 788009.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
ELEMENTARY EDUCATION DEPARTMENT,
DISPUR-06, ASSAM.

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

3:THE STATE LEVEL SCRUTINY COMMITTEE
REPRESENTED BY ITS CHAIRMAN CUM DIRECTOR
ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI- 19.

4:THE DISTRICT LEVEL SCRUTINY COMMITTEE
REPRESENTED BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER
CACHAR
DIST.- CACHAR.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
CACHAR

SILCHAR
DIST.- CACHAR.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
LAKHIPUR
CACHAR

P.O.- LAKHIPUR
DIST.- CACHAR.

7:AKHTARUL ISLAM LASKAR
THE HEADMASTER

M.A. AND S.A. LASKAR M.E. SCHOOL

KASHIPUR

DIST.- CACHAR
ASSAM

Advocate for the Petitioner : MR. H ALI

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

06.01.2023.

Heard Mr. H Ali, learned counsel for the petitioner and Mr. A Phukan, learned Standing counsel, Elementary Education Department, Assam for the respondent Nos. 1 to 6.

The petitioner stated that in the year 2007 the authorities of MA & SA Laskar M.E. School, Kashipur under the Lakhipur Education Block of District-Cachar during its venture stage appointed him as an Assistant Teacher, pursuant to which he joined the said M.E. school on 15.02.2007 and is rendering his service till date.

It is stated that though the respondent authorities took steps for provincialisation of service of teaching and non-teaching staff of the said M.E. school under the provisions of the Assam Education (Provincialisation of Services of Teachers

and Re-Organization of Educational Institutions) Act, 2017 as amended in 2018, but the District Scrutiny Committee, District-Cachar did not recommend his name for provincialisation and the respondent No. 7 recommended the name of one Ruma Roy, an Assistant Teacher of Social Studies, who was already terminated from service by the School Managing Committee of said school in its resolution adopted on 01.03.2020.

Being aggrieved with such non-provincialisation of his service under the said 2017 Act on provincialisation of the services of the teaching and non-teaching staff of the said M.E. school, the petitioner has preferred this writ petition.

The petitioner also submitted that the post of Assistant Teacher of Social Science in said M.E. School on being provincialisation of Smti. Ruma Roy under the said 2017 is still lying vacant, since service of said Ruma Roy was terminated long back and is no longer in service in the said MA & SA Laskar M.E. School.

Section 14 of said 2017 Act provides for Appellate Authority which reads as follows-

“Appellate Authority:-

The State Level Scrutiny Committee shall be the appellate authority against any recommendation of the District Scrutiny Committee and the State Government in the concerned administrative department shall be the Appellate Authority against any recommendation of the State Level Scrutiny Committee.”

As there is a statutory provision of appeal under the said 2017 Act, the petitioner is directed to prefer an appeal before the Secretary, Department of School (Elementary) Education, Assam under Section 14 of said 2017 Act for redressal of his grievances.

Such appeal shall be preferred by the petitioner on or before 31.01.2023 along with the certified copy of this order, also a copy of this writ petition including the Annexures appended thereto before the Secretary, Department of School (Elementary) Education, Assam, noted above, obtaining necessary acknowledgment from the said authority in that regard.

In the event of filing such appeal before the Secretary, Department of School (Elementary) Education, within the time as specified above, the concerned appellate authority shall dispose of the said statutory appeal of the petitioner within a period of 90 (ninety) days from the date of receipt of the same with a reasoned order, after verification of the relevant records, documents and giving an opportunity of hearing to the petitioner and the respondent No. 7, intimating the petitioner about the outcome of his said appeal.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant