

GAHC010270182022



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

Case No. : WP(C)/6/2023

NANDA DAS
D/O- JAGADISH CHANDRA DAS,
R/O- CHANDRAPUR PART-II,
P.O.- CHANDRAPUR PART-II,
P.S.- LALA, DISTRICT- HAILAKANDI,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
THROUGH THE COMMISSIONER AND SECRETARY,
TO THE GOVERNMENT OF ASSAM,
EDUCATION (SECONDARY) DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE INSPECTOR OF SCHOOLS
HAILAKANDI DISTRICT CIRCLE
P.O. AND P.S.- HAILAKANDI

DISTRICT- HAILAKANDI
ASSAM.

4:THE HEADMASTER
DHOLAI MOLAI HIGH SCHOOL
P.O.- DHOLAI SOUTH

P.S.- DHOLAI

DISTRICT- HAILAKANDI

ASSAM. PIN- 788161.

5:THE DISTRICT SCRUTINY COMMITTEE
HAILAKANDI
REPRESENTED BY THE DEPUTY COMMISSIONER
HAILAKANDI

P.O. AND P.S.- HAILAKANDI

DISTRICT- HAILAKANDI
ASSAM

Advocate for the Petitioner : MS. S SEAL

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

04.01.2023.

Heard Ms. S Kanungoe, learned counsel for the petitioner and Mr. U Sarma, learned Standing counsel, Secondary Education Department, Assam for the respondent Nos. 1, 2 & 3. Also heard Mr. G Bokalia, learned Government Advocate, Assam for the respondent No. 5.

Pursuant to a resolution adopted by the Managing Committee of Dholai Molai High School in the district of Hailakandi dated 26.10.2003, the Secretary of the said school appointed the petitioner as an Additional Teacher in it pursuant to which the petitioner joined the said school on 27.10.2003 as an Additional Teacher teaching English to its students.

It is stated that the name of the petitioner has been regularly reflected in the concerned DISE Code pertaining to said Dholai Molai High School.

Though the District Scrutiny Committee in the Secondary Education, Hailakandi recommended the name of the petitioner for provincialisation of her service under the

provisions of the Assam Education (Provincialisation of Services of Teachers and Re-Organisation of Educational Institutions) Act, 2017, but while provincialising the services of the teaching and non-teaching staff of the said school pursuant to the approval of the State Government in the Secondary Education under No. ASE.8/202/111 dated 03.02.2021 and No. ASE.46/2021/6 dated 03.02.2021, her name did not figure in the order dated 04.01.2021 issued by the Director of Secondary Education, Assam provincialising the services of the teaching staff of said Dholai Molai High School under the said 2017 Act.

The petitioner submitted that the Headmaster of said Dholai Molai High School by its communication dated 30.06.2021 informed the Director of Secondary Education that the enrollment of students in the said school is more than 80 and her name is included in the DISE Data and therefore, her service needs to be provincialised under the said 2017 Act, but the same has not been acted upon by the authorities concerned till date.

Pertaining to inclusion of her name in the DISE Data, it is submitted by the petitioner that the Inspector of Schools, Hailakandi District Circle, Hailakandi vide its communication dated 16.07.2021 submitted its report before the Director of Secondary Education.

Being aggrieved, the petitioner has preferred this writ petition.

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, Secondary Education

Department, Assam under Section 14 of said 2017 Act for redressal of her grievances.

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

In the event of filing such appeal by the petitioner before the Secretary, Secondary Education Department, Assam within the time as specified above, the concerned appellate authority shall dispose of the same within a period of 60 (sixty) days from the date of receipt of the said appeal with a reasoned order, after verification of the relevant records, documents and giving an opportunity of hearing to the petitioner and the Inspector of Schools, Hailakandi District Circle, Hailakandi, if so required, intimating the petitioner about the outcome of the same.

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

JUDGE

Comparing Assistant