

GAHC010270212022



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

Case No. : WP(C)/198/2023

NURUL HAQUE LASKAR
S/O- QUTUB ALI LASKAR, R/O- VILL- DHOLAI PART-I, P.O. DHOLAI SOUTH,
DIST.- HAILAKANDI, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
THROUGH- THE COMM. AND SECY., TO THE GOVT. OF ASSAM,
EDUCATION (SECONDARY) DEPTT., DISPUR, GHY-06

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

3:THE INSPECTOR OF SCHOOLS
HAILAKANDI DISTRICT CIRCLE
DIST.- HAILAKANDI
ASSAM

4:THE HEADMASTER
DHOLAI MOLAI HIGH SCHOOL
P.O. DHOLAI SOUTH
P.S. DHOLAI
DIST.- HAILAKANDI
ASSAM
PIN- 788161

5:THE DISTRICT SCRUTINY COMMITTEE
REP. BY ITS CHAIRMAN
THE DY. COMMISSIONER
HAILAKANDI

DIST.- HAILAKANDI
ASSA

Advocate for the Petitioner : MS. S SEAL

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

10.01.2023.

Heard Ms. S Kanungoe, learned counsel for the petitioner and Mr. B Koushik, learned Standing counsel, Department of School (Secondary) Education, Assam for the respondent Nos. 1, 2 & 3. Also heard Mr. P Saikia, 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 on 23.03.1998, the Secretary of the said school appointed the petitioner as a Persian Teacher in it while it was in Venture stage and since then, he is serving in the said High School.

It is stated that the name of the petitioner figured in the concerned DISE Code/UDISE pertaining to said Dholai Molai High School, District-Hailakandi.

Though the District Scrutiny Committee in the Secondary Education, Hailakandi recommended the name of the petitioner for provincialisation of his service under the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-Organization of Educational Institutions) Act, 2017 as amended, but he has been left out by the State Level Scrutiny Committee and by an Order under No. PC/Sec/Prov./65/2021/65 dated 04.01.2021, the Director of Secondary Education, Assam provincialised the services of the Headmaster, two Assistant Teachers of Science, two Assistant Teachers of Arts and one Hindi Teacher of the said High School under the provisions of the said 2017 Act.

The petitioner submitted a representation before the Headmaster of the said

High School on 30.06.2021, who in turn submitted the same before the Director of Secondary Education, Assam through the Inspector of Schools, Hailakandi District Circle, Hailakandi to consider the case of the petitioner for provincialisation of his service.

Being aggrieved with such action of the respondents in the Secondary Education Department in not provincialising his service, 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, Department of School (Secondary) 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, a copy of this writ petition including the Annexures appended thereto before the Secretary, Department of School (Secondary) Education, 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, Department of School (Secondary) Education, 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 his said appeal.

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

JUDGE

Comparing Assistant