

GAHC010278472023



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

Case No. : WP(C)/7317/2023

1: ALI HUSSAIN SK, TUTOR (SCIENCE), SHIMULTAPU BLOCK M.E.
MADRASSA, S/O- HAJRAT ALI SK, VILL. SHIMULTAPU NO.1, P.O.
SHIMULTAPU NO. 1, DIST.- KOKRAJHAR, ASSAM, PIN- 783361

2: SURAJ JAMAN PRAMANIK, TUTOR CHAMPANAGAR MILAN M.E.
SCHOOL S/O- ABDUR RAHIM PRAMANIK VILL- JUREGAON
P.O. KALIPUKHURI DIST.- KOKRAJHAR ASSAM PIN- 783369

3: AJIT KR. SARKAR, TUTOR, KUSHLAIGURI M.E. SCHOOL
S/O- AKSHAY KR. SARKAR VILL- KUSHLAIGURI P.O. PATILADAHA
DIST.- BONGAIGAON ASSAM PIN- 78339

VERSUS

1: THE STATE OF ASSAM AND 4 ORS REPRESENTED BY THE
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPARTMENT, DISPUR, GUWAHATI-6

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

3: THE DIRECTOR OF EDUCATION BODOLAND TERRITORIAL COUNCIL
(BTC) KOKRAJHAR P.O. P.S. AND DIST. KOKRAJHAR ASSAM PIN- 783370

4: THE DISTRICT ELEMENTARY EDUCATION OFFICER
KOKRAJHAR P.O. P.S. AND DIST.- KOKRAJHAR ASSAM PIN- 783370

5: THE DISTRICT ELEMENTARY EDUCATION OFFICER
BONGAIGAON P.O. P.S. AND DIST.- BONGAIGAON ASSAM PIN- 78338

Advocate for the Petitioner : MR. Z HAMMAD

Advocate for the Respondent : SC, BTC

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 18-12-2023

Heard Mr. Z. Hammad, learned counsel for the petitioners. Also heard Mr. B. Kaushik, learned standing counsel, Education (Elementary) Department, representing the respondent Nos.1, 2 & 5 and Mr. S. Rabha, learned standing counsel, BTC, representing the respondent Nos.3 & 4.

The petitioners, by way of the present proceeding, have raised a grievance with regard to non-consideration of their cases for up-gradation to the post of "Teacher" from the post of "Tutor" held by them after they had acquired the prescribed qualifications for being appointed as "Teacher" in terms of the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 (hereinafter referred to as "the 2017 Act").

The cases of the petitioners, who were working in the venture educational institutions, were taken up for provincialisation under the provisions of the 2017 Act and on being found to be eligible by the authorities mandated to consider such cases, the Director of Elementary Education, Assam, vide orders dated 05.02.2021, provincialised the services of the petitioners in their respective Schools. It is the case of the petitioners that pursuant to their services being provincialised as "Tutors", the petitioners proceeded to acquire the qualifications as mandated for the post of Assistant Teacher of Upper Primary School and have in the meantime acquired all the prescribed qualifications.

The District Elementary Education Officers, Bongaigaon and Kokrajhar had also placed the cases of the petitioners with their up-dated qualifications

before the Director of Elementary Education, Assam for doing the needful. However, inspite of the fact that the petitioners have since acquired all the requisite qualifications mandated for the post of Assistant Teacher in Upper Primary Schools, their cases are yet to be considered.

In view of the said submissions made, this writ petition stands disposed of directing the petitioners to submit their individual representations before the Director of Elementary Education, Assam by bringing on record their up-dated qualifications along with necessary certificates thereto. The Director of Elementary Education, Assam, on receipt of the said representations along with a certified copy of this order, shall verify the particulars so placed by the petitioners and in the event the petitioners are found to have acquired the requisite qualifications mandated for holding the post of Assistant Teacher in a provincialised Upper Primary School, shall pass necessary orders towards upgrading the services of the petitioners to that of the posts of Assistant Teacher along with the consequential benefits attached thereto. The said exercise be carried out within a period of 2(two) months from the date of receipt of a certified copy of this order along with the representations, as stated hereinabove, from the petitioners.

There shall be no order as to cost.

JUDGE

Comparing Assistant