

GAHC040009912024



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

Case No. : WP(C)/319/2024

Honlam Wangnow
Son of Late Ponglam Wnagnow,
Senua village,
PO and PS Longding,
Longding District,
Arunachal Pradesh.

VERSUS

The State of AP and 2 Ors
represented by the Secretary,
Education,
Govt of Arunachal Pradesh,
Itanagar

2:The Director of Secondary Education
Age: 0
Occupation :
Govt of Arunachal Pradesh
PO and PS Itanagar
Itanagar

3:The Deputy Director of School Education
Age: 0
Occupation :
Govt of Arunachal Pradesh
PO and PS Longding
Longding District
Arunachal Pradesh

Advocate for the Petitioner : Mr. Hage Lampu

Advocate for the Respondent : Mr. Taba Tagum, SC(Education)

**BEFORE
HONBLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 09.08.2024

Heard Mr. H. Lampu, learned counsel for the petitioner and Mr. T. Tagum, learned standing counsel for the Education Department.

2. The present writ petition is filed assailing an order of transfer and posting dated 05.07.2024 issued by the Deputy Director of School Education, Longding District, Arunachal Pradesh.

3. The said order is challenged on the ground that the same has been issued without any authority and in violation of Arunachal Pradesh Education Rules, 2010 and Teacher Transfer & Posting Guidelines, 2019-2020 inasmuch as in ignorance of the communication of Director of Secondary Education, dated 12.07.2024.

4. Perused the Arunachal Pradesh Education Rules, 2010 framed by the State in exercise of its power under Section 141 of the Arunachal Pradesh Education Act, 2010.

5. The said Rules, amongst other, deals in Chapter-22 regarding transfer and posting and certain procedure has been laid down therein as regards transfer including period of posting, mutual transfer, transfer on health ground etc. The State has also notified Teachers Transfer & Posting Policy, 2019-2020 on

10.02.2020. The said policy also prescribes certain procedure for transfer.

6. Though, by now, law is well settled that such transfer policy shall not create any right on the employees, however, the State is expected to follow their own policies in normal condition. The policy under Clause-12 has also created a grievance redressal forum. In terms of the aforesaid clause, if any teacher has any grievance or objection against his/her transfer or posting, he/she may submit a representation to the competent authority through proper channel.

7. Therefore, in the considered opinion of this Court, in the backdrop of nature of the grievance raised, the said authority shall be the competent authority to decide the grievance of the petitioner at the first instance. Therefore, this writ petition is disposed of providing that the petitioner may file a representation before the Director, Elementary Education raising his grievances including his grievances that the transfer order has been passed by an incompetent authority in terms of Clause-11 of the Teachers Transfer and Posting Policy and that even after specific direction of the Director of Secondary Education stalling all transfer order by its W.T. Message dated 12.07.2024, the impugned order dated 05.07.2024 was issued by the Deputy Director of School Education.

8. The petitioner shall file such representation within 7 (seven) days from today before the Director, Elementary Education and if such representation filed within the aforesaid period, the Director, Elementary Education shall consider the same and pass a speaking order in terms of the extent norms and policy of the State. Such exercise be carried out within 2 (two) weeks from the receipt of the representation of the petitioner.

9. Till such determination is made by the impugned transfer order dated 05.07.2024 and all subsequent action that has been taken shall remain suspended.

JUDGE

Comparing Assistant