

GAHC010000042022



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

Case No. : WP(C)/74/2022

ZILL HOSSAIN
S/O JAHIR UDDIN
RESIDENT OF HARIRCHAR PART II
PO MADRASSAPARA, DIST BONGAIGAON, ASSAM,

VERSUS

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

2:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BONGAIGAON
ASSAM

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
SRIJANGRAM
DIST BONGAIGAON
ASSAM

5:THE DISTRICT SCRUTINY COMMITTEE
BONGAIGAON
ASSAM
TO BE REPRESENTED BY THE CHAIRMAN CUM DEPUTY COMMISSIONER
BONGAIGAON
ASSAM

6:THE STATE LEVEL SCRUTINY COMMITTEE
ASSAM
TO BE REPRESENTED BY ITS CHAIRMAN CUM THE DIRECTOR OF
ELEMENTARY EDUCATION DEPARTMENT
KAHILIPARA
GUWAHATI ASSAM

7:MOYNUL HAQUE
S/O MONSHER MONDAL
RESIDENT OF HARIRCHAR PART I
PO MADRASSAPARA
DIST BONGAIGAON
ASSAM 78338

Advocate for the Petitioner : MR. J LASKAR

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE KARDAK ETE
ORDER

15.02.2024.

Heard Mr. J. Laskar, learned counsel for the petitioner. Also heard Mr. P.K. Bora, learned standing counsel for the Elementary Education Department appearing for the State respondents. None appears for the respondent No.7, despite service of notice.

(2) The case projected by the petitioner in this Writ Petition is that he was appointed as Hindi Teacher in the Harirchar M.E. Madrassa in Bongaigaon District on 10.01.1993. Accordingly, he joined in his service on 15.01.1993.

(3) According to the petitioner he is the seniormost Language Teacher in the said school. Section 3 of the Assam Education (Provincialisation of Services of Teachers and Re-Organisation of Educational Institutions) Act, 2017 (here-in-after referred to as 'the Act of 2017'), provides for provincialisation of three (3)

Assistant Teachers/Tutors for three (3) subjects, namely, (1) Science and Mathematics, (2) Social Studies and (3) Language.

(4) Learned counsel for the petitioner submits that four teachers have been provincialised as Tutors. However, the name of the petitioner has been dropped, whereas the service of the respondent No.7 has been provincialised as Language Teacher who is junior to the petitioner vide order dated 04.02.2021, by which the list of provincialised teachers was published in the Official Website. The service of respondent No.7 was provincialised in violation of the provisions of the Act of 2017.

(5) It is noticed that an Appeal provision is provided under Section 14 of the Act of 2017.

(6) Considering that an Appeal provision is provided under Section 14 of the Act of 2017 and on the consent of learned counsel for the parties, this Writ Petition is disposed of with a direction to the petitioner to file an Appeal under Section 14 of the Act of 2017, within thirty (30) days from today. On such filing of Appeal, the appellate Authority shall consider the case of the petitioner, by giving him an opportunity of hearing and pass appropriate order(s) within three (3) months, from the date of receipt of the said Appeal.

(7) Till the disposal of the appeal, the interim order passed on 07.01.2022, shall continue.

(8) The Writ Petition stands disposed of in terms of the above observation and direction. No order as to cost.

JUDGE

Comparing Assistant