

GAHC010005082024



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

Case No. : WP(C)/198/2024

GIAS UDDIN AHMED
S/O- LATE RUKUN UDDIN AHMED,
HEAD ASSISTANT,
O/O THE DEPUTY INSPECTOR OF SCHOOLS, SILCHAR, CACHAR,
R/O- ZAKARIA MANSION, TALUKDAR LANE,
ITHKHOLA, GHANIWALA ROAD, VTC MELA ROAD,
PO MALUGRAM, SILCHAR, DIST.- CACHAR,
ASSAM, PIN- 788002.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY,
TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION,
(ELEMENTARY EDUCATION), DISPUR,
GUWAHATI, ASSAM, PIN- 781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
ASSAM

PIN- 781019.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
CACHAR
SILCHAR
ASSAM
PIN- 788003.

4:THE DEPUTY INSPECTOR OF SCHOOLS
SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788001.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
LAKHIPUR EDUCATION BLOCK
LAKHIPUR
DIST.- CACHAR
ASSAM

Advocate for the Petitioner : MR. A K DUTTA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

19.01.2024

Heard Mr. B. Choudhury, learned counsel for the petitioner. Also heard Mr. N.J. Khataniar, learned Standing Counsel, Secondary Education Department.

This petition has been filed by the petitioner being aggrieved by the order dated 22.12.2023 issued by the Deputy Inspector of Schools whereby the petitioner was attached to the Office of BEEO, Lakhipur, Cachar. The petitioner is working as a Head Assistant in the Office of the Deputy Inspector of School, Silchar. By the impugned order, he is directed to handover the charge to the Junior Assistant and joined in the Office of the BEEO, Lakhipur, Cachar.

The learned counsel for the petitioner submits that under the Assam Elementary Education (Provincialisation) Act, 1974, it is the Director of Public Administration who is the authority responsible for exercising administrative powers under the Act. The learned counsel for the petitioner submits that the

Deputy Inspector of School is not authorized to issue such orders of attachment or transfer in respect of Head Assistants like the petitioner. That apart, it is submitted that there is no post of Head Assistant in the Office of the BEEO, Lakhipur, Cachar where the petitioner has been attached by the impugned order. Under such circumstances, he has filed representation before the Director, Secondary Education on 02.01.2024 and it was sent by speed post. The learned counsel for the petitioner submits that this representation has not been disposed of by the concerned authority and left with no alternative, he has approached this Court.

Mr. N.J. Khataniar, learned Standing Counsel, Elementary Education submits that at present there are no specific Rules governing the service conditions of Grade-III personnel under the Education Department. He craves leave of the Court to complete his instructions.

Having heard the learned counsels for the parties and upon perusal of the pleadings on record, it is seen that the impugned order is an order for attachment of the petitioner in the Office of the BEEO, Lakhipur, Cachar and his present place of posting namely, Office of the Deputy Inspector of School, Silchar. The pleadings contained the orders reflecting the orders issued, appointing the petitioner as LDA as well as his subsequent promotion and all these orders were issued by the Director, Elementary Education. It is also seen that there is a representation stated to have been filed by the petitioner and sent by post on 02.01.2024 and which was remained pending. In that view of the matter, this Court is of the considered opinion that the writ petition can be disposed of with a direction to the Director, Elementary Education to expeditiously consider the claims of the petitioner ventilated through the representation filed and dispose of the same by way of a speaking order. In the

event, the Director, Elementary Education is of the view that the impugned order dated 22.12.2023 passed by the Deputy Inspector of Schools is an except under the Rules then effective orders thereon shall be passed by the Director, Elementary Education. Any such speaking order that is passed, copy thereof shall be furnished upon the petitioner.

The direction above shall be carried out within a period of thirty (30) days from the date of receipt of certified copy of this order. Till such disposal, the impugned order dated 22.12.2023 shall not be given effect to.

In terms of the above, the writ petition stands disposed of.

JUDGE

Comparing Assistant