

GAHC010010052022



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

Case No. : WP(C)/409/2022

ABDUL HAMID SHEIKH
S/O SOLEMAN SHEIKH, VILL- ALOMGANJ PART-IX, P.O.-ALOMGANJ, DIST-
DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT,
DISPUR, GUWAHATI-781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM
KAHILIPARA
GUWAHATI-781019

3:THE STATE LEVEL SCRUTINY COMMITTEE
REPRESENTED BY ITS CHAIRMAN/DIRECTOR OF THE ELEMENTARY
EDUCATION ASSAM
KAHILIPARA
GUWHATI-781019

4:THE DISTRICT SCRUTINY COMMITTEE FOR ELEMENTARY EDUCATION
DHUBRI
REPRESENTED BY ITS MEMBER SECRETARY/ DISTRICT ELEMENTARY
EDUCATION OFFICER
DHUBRI
P.O. AND DIST- DHUBRI
ASSAM
PIN-783301

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI

P.O. AND DIST-DHUBRI
ASSAM
PIN-783301

6:MD. NUR ISLAM
S/O LATE MOKSED ALI
VILL-KATLAMARI PART IV
P.O.-PADMER ALGA
DIST-DHUBRI
ASSAM
PIN-783339

7:MD. SAHID ALI
S/O LATE TAIJUDDIN SHEIKH
VILL-CHALAKURA POISTY
P.O.-MAJER CHAR
DIST- DHUBRI
ASSAM
PIN-78332

Advocate for the Petitioner : MR. D A KAIYUM

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 13.02.2024

Heard Mr. D.A. Kaiyum learned counsel for the petitioner. Also heard Mr. P.K. Bora, learned standing counsel, Elementary Education Department for the respondents No.1, 2, 3 and 5 and Mr. R. Karim, learned counsel for the respondents No.6 and 7.

2. The petitioner is aggrieved by the provincialisation of the services of the respondents No.6 and 7 vide notification dated 04.02.2021 by the Director of Elementary Education, Govt. of Assam on the ground that the petitioner was initially recommended by the Headmaster of the Tangvita M.E. Madrassa under Gauripur Education Block in the district of Dhubri as Social Studies subject teacher along with other teachers including the respondents No.6 and 7.

3. It is contended that in recommendation letter, the name of the petitioner appears at Serial No.1. The respondents No.6 and 7 were recommended and placed at Serial No.2 and 3 in Assamese and

Mathematics subjects. However, the District Scrutiny Committee surprisingly, recommended the name of the respondent No.6 Nur Islam in the Language subject and respondent No.7 in Social Science including one Mohar Ali in Mathematics and Science subjects. Pursuant to the recommendation vide notification No.EPD-46/2017/Pt-I/42 dated 04.02.2021, the Director of Elementary Education, Assam appointed the respondents No.6 and 7 and one Mohar Ali.

4. The contention of the writ petitioner is that initially he was recommended by the Headmaster for provincialisation of his service in the Social Science subject and placed him at Serial No.1. However, the District Scrutiny Committee illegally recommended the respondent No.7 for provincialisation of his service in the Social Science subject, therefore, illegally appointed the respondents No.6 and 7 by depriving the petitioner.

5. The provincialisation of the schools and the services of the teachers are governed by the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017 as amended in 2018 (in short, 'Act of 2017'). It provides for the provision of appeal under Section 14.

6. Having considered that there exists an appeal provision under Section 14 of the Act of 2017, the writ petition stands disposed of with a direction to the petitioner to file an appeal under Section 14 of the Act of 2017 within 15 days from today. On such filing of the appeal, the respondent authorities are directed to consider the case of the petitioner by providing an opportunity of hearing and pass appropriate orders within a period of three months from the date of receipt of the appeal.

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

JUDGE

Comparing Assistant