

GAHC010020482023



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

Case No. : WP(C)/724/2023

FAKAR UDDIN AHMED AND 2 ORS.
HEAD MASTER ,
BECHAMARI HAJI FAJAR ALI M.E MADRASSA, AGED ABOUT 44 YRS,
S/O- LATE ABDUL HAKIM,
VILL AND P.O- BECHAMARI,
P.S- DHING,
DIST- NAGAON, ASSAM, PIN-782123

2: ABDUL MALEK
ASSTT. TEACHER
BECHAMARI HAJI FAJAR ALI M.E MADRASSA
AGED ABOUT 50 YRS
S/O- FAJAR ALI
VILL AND P.O- BECHAMARI
P.S- DHING
DIST- NAGAON
ASSAM
PIN-782123

3: REZAUL ISLAM
ASSTT. TEACHER
BECHAMARI HAJI FAJAR ALI M.E MADRASSA
AGED ABOUT 44 YRS
S/O- LATE EUSUF ALI
VILL- BILOTIA
P.O AND P.S- DHING
DIST- NAGAON
ASSAM
PIN-78212

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF

ASSAM, ELEMENTARY EDUCATION DEPARTMENT
DISPUR, GUWAHATI-781006

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

3:THE MISSION DIRECTOR
ASSAM SARBA SIKSHA ABHIYAN MISSION
KAHILIPARA
GUWAHATI-19

4:THE DEPUTY COMMISSIONER
NAGAON
P.O P.S AND DIST- NAGAON
ASSAM
PIN-782001

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NAGAON

P.O
P.S AND DIST- NAGAON
ASSAM
PIN-782001

6:THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM
DISPUR
GUWAHATI- 6

7:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
SECONDARY EDUCATION DEPARTMENT
DISPUR
GUWAHATI-6

8:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
GUWAHAT

Advocate for the Petitioner : MR. Z HAMMAD,

Advocate for the Respondent : SC, ELEM. EDU, MR S M T CHISTIE,MS. D D BARMAN,SC,
SSA,GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

23-10-2024

Heard Shri Z. Hammad, learned counsel for the petitioners. Also heard Shri P. Bora, learned Standing Counsel, Elementary Education Department, who has also filed the affidavit-in-opposition on 22.08.2024. Shri P. Nayak, learned Standing Counsel is present for the SSA.

2. Considering the subject matter and as agreed to by the learned counsel for the parties, the writ petition is taken up for disposal at the admission stage.

3. The petitioners, who are three in numbers are the Head Teacher and Assistant Teachers of the Bechamari Haji Fajar Ali ME Madrassa, Nagaon. It has been contended that the names of the petitioners were captured in the DISE Code for the year 2009-10 having Code No. 0101017. Following the provisions of the ***Assam Education (Provincialisation of Services of Teachers and Re-Organization of Educational Institutions) Act, 2017*** (for short Act of 2017) a move for provincialisation of the School along with the petitioners was made and accordingly the District Scrutiny Committee, Nagaon had forwarded the proposal for such provincialisation. The aspect of provincialisation was however put to a halt on a complaint lodged by one Hindi Teacher of the same School who had alleged that the land of the school was not sufficient.

4. Shri Hammad, the learned counsel has submitted that the said complaint was apparently frivolous inasmuch as it was lodged by a disgruntled teacher of the same school whose name was not amongst those captured by the DISE

Code. He had also drawn the attention of this Court to the Inspection Report dated 02.11.2022 furnished by the District Elementary Education Officer, Nagaon whereby the complaint has been held to be not genuine.

5. Shri Bora, the learned Standing Counsel, by referring to the affidavit-in-opposition and also to further instructions received has submitted that apart from the complaint, there was no other legal impediment for the consideration of the case of the petitioners.

6. On hearing, the learned counsel for the parties and on perusal of the materials on record, more particularly the Inspection Report dated 02.11.2022 of the District Elementary Education Officer, Nagaon it transpires that the impediment in the process of provincialisations was in the form of a complaint which has been stated to be not genuine.

7. In view of the above, this Court directs that the cases of the petitioners for provincialisations as per the Act of 2017 be carried forward and the same be brought to a logical conclusion. Since the matter has been pending since long, the process be completed in an expeditious manner and preferably within a period of 6 (six) months from today.

8. Writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant