

GAHC010034992024



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

Case No. : WP(C)/906/2024

BIJAY BOISHNAB

S/O- LATE BIBEKANANDA BOISHNAB, R/O- WARD NO. 3 (PRAGATI LANE),
P.O., P.S. AND DIST. KOKRAJHAR, ASSAM, PIN- 783370.

VERSUS

THE STATE OF ASSAM AND 5 ORS
THROUGH THE SECRETARY TO THE GOVT. OF ASSAM, SCHOOL
EDUCATION DEPARTMENT, DISPUR, GHY-6.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE BODOLAND TERRITORIAL COUNCIL
THROUGH THE PRINCIPAL SECRETARY
KOKRAJHAR
DIST. KOKRAJHAR
PIN- 783370.

4:THE SECRETARY

BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
DIST. KOKRAJHAR
ASSAM
PIN- 783370.

5:THE DIRECTOR OF EDUCATION

BODOLAND TERRITORIAL COUNCIL

KOKRAJHAR
DIST. KOKRAJHAR
ASSAM
PIN- 783370.

6:JAGADISH PRASHAD BRAHMA
THE INSPECTOR OF SCHOOLS
KOKRAJHAR DISTRICT CIRCLE
KOKRAJHAR
CHIRANG
DIST. KOKRAJHAR
PIN- 783370

Advocate for the Petitioner : MR. I H SAIKIA

Advocate for the Respondent : SC, SEC

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 21.02.2024

Heard Mr. I. H. Saikia, learned counsel for the petitioner. Also heard Mr. N. J. Khataniar, learned standing counsel, Education department and Mr. P. Nayak, learned standing counsel, BTC.

2] This writ petition is filed by the petitioner putting into challenge the order dated 15.02.2024 whereby the petitioner was transferred and posted as an Inspector of School of the District of Elementary Education Officer, Udalguri. The petitioner is presently posted at Chirang.

3] Learned counsel for the petitioner referring to the guidelines issued by the State Government on 21.05.1987 has referred to the guidelines no.1 whereby spouses who belong to the same State service may be posted at the same station by the cadre Controlling Authority. Learned counsel for the petitioner submits that both the petitioner and his wife are working under the State

Education Department and that apart, they have two school going daughters. Besides his old ailing mother needs constant medical care. Learned counsel for the petitioner submits that the petitioner submitted a representation dated 17.02.2024 before the Chief Executive Member, BTC, Kokrajhar. Thereafter the petitioner also sent a representation dated 17.02.2024 to the Secretary to the Government of Assam, School Education Department with a prayer to allow him to work at Chirang. Also the petitioner's wife has filed a representation before the Secretary, Government of Assam, School Education Department on 17.02.2024. However, no order has been passed on the said representations.

4] Mr. I.H. Saikia, learned counsel for the petitioner submits that transfer order of the petitioner be interfered with and a direction be issued to the respondents to pass an appropriate order in terms of the guidelines adopted by the State.

5] Mr. N.J. Khatoniar, learned Standing Counsel, Elementary Education Department submits that he has no instructions.

6] Considering the fact that the writ petition has been filed with a limited purpose for consideration of the case of the petitioner and also for consideration of the representations dated 17.02.2024 filed by the petitioner and his wife which is pending before the concerned authorities, this Court is of the opinion that this writ petition can be closed at this stage permitting the petitioner to file a representation before the Secretary, School Education Department i.e. the respondent no.1 to reconsider the transfer order dated 15.02.2024 in so far as the writ petitioner is concerned after taking due consideration of the grievances of the petitioner as urged before this Court as well as the guidelines issued under the Office Memorandum dated 21.05.1987.

7] The Secretary, School Education Department i.e. the respondent no.1 will decide the representation within a period of 10 (days) days from the date of receipt of a certified copy of this order and disposed of the representation considering the claims of the writ petitioner, any such order that is passed, copy thereof will be served on the writ petitioner. While deciding the representation, the authority will pass a speaking order taking into consideration the various Office Memorandums issued by the Government of Assam from time to time regarding transfer and posting of Government employees who are spouses at the same station and if the claims are found to be genuine and acceptable then necessary orders may be passed by the Secretary in terms of the Office Memorandums posting the petitioner and his wife in the same district.

8] Till then the impugned order dated 15.02.2024 only in respect of the writ petitioner shall remain stayed.

9] The writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant