

GAHC010040572022



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

Case No. : WP(C)/1563/2022

BANTI SARMA
W/O- KULENDRA SARMA, R/O- VILLAGE PUB NAOKATA, P.O- NAOKATA,
P.S- SUWAGPUR, PUIN-781364, DIST- NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
TO BE REP. BY COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
EDUCATION SECONDARY DEPTT., DISPUR, GHY- 6.

2:THE ADDITIONAL SECRETARY
GOVT. OF ASSAM
SECONDARY EDUCATION DEPARTMENT
KAHILIPARA
GUWAHATI-19.

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

4:STATE SELECTION BOARD
REP. BY ITS CHAIRMAN
DISPUR
GUWAHATI
ASSA

Advocate for the Petitioner : MR. S HAZARIKA

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HON'BLE MR. JUSTICE KARDAK ETE**

O R D E R

16.02.2024.

Heard Mr. S. Hazarika, learned counsel for the petitioner. Also heard Mr. U. Sarma, learned standing counsel appearing for the respondent Secondary Education Department.

(2) By instituting this Writ Petition, the petitioner has prayed for a direction to the respondent No.3, Director of Secondary Education, Government of Assam to give effect to the order dated 31.12.2021, issued by the Additional Secretary to the Government of Assam, Secondary Education Department, approving the promotion of the petitioner as regular Headmistress of Makhibaha Girls' High School in Nalbari District.

(3) The petitioner having the B.A., B. Ed. Degree was appointed as Assistant Teacher (Arts) in Makhibaha Girls' High School in Nalbari District on 20.06.2008. Consequent to the process of promotion to the post of regular Headmaster/Headmistress, the authority concerned has recommended the name of the petitioner and one Mrs. Usha Rani Barman (who was the in-charge Headmistress) for promotion to the post of regular Headmaster/Headmistress of Makhibaha Girls' High School, Nalbari. However, before issuance of the promotion order, said Mrs. Usha Rani Barman has retired from her service on attaining the age of superannuation. Thereafter, the Selection Board recommended the name of the petitioner, being eligible in all respects, to the

Government of Assam. The Competent Authority, Secondary Education Department accorded its approval for promotion of the petitioner to the post of Headmistress. Vide No.ASE.611/2020/Pt-II/43, dated 31.12.2021, the Additional Secretary to the Government of Assam, Secondary Education Department has conveyed approval for promotion of the petitioner to the post of regular Headmistress in the said school, to respondent No.3, the Director of Secondary Education, Government of Assam.

(4) According to the petitioner, the said communication conveying the approval has not been acted upon by the Director of Secondary Education Department, Government of Assam (respondent No.3). Therefore, the learned counsel for the petitioner prays that the respondent authorities, particularly the respondent No.3 may be directed to give effect to the said communication No.ASE.611/2020/Pt-II/43, dated 31.12.2021, allowing the petitioner to join in the post of Headmistress of Makhibaha Girls' High School, Nalbari.

(5) Mr. U. Sarma, learned standing counsel for the Secondary Education Department fairly submits that since the promotion of the petitioner as the Headmistress of Makhibaha Girls' High School, Nalbari has been duly accorded approval by the Government, there is no reason as to why the respondent No.3 is not allowing the petitioner to hold the post of Headmistress of the said school. In other words, the Director of Secondary Education Department, Government of Assam (respondent No.3) is duty bound to give effect to such approval of the Government, as the petitioner is eligible in all respects and proper procedure for selection has been followed.

(6) On the consideration of the submissions of learned counsel for the parties and the materials available on record, it transpires that the Government of Assam, vide communication No.ASE.611/2020/Pt-II/43, dated 31.12.2021, has

conveyed approval for promotion of the petitioner to the post of regular Headmistress of Makhibaha Girls' High School, Nalbari. This Court also takes note of the fact that the petitioner is having all eligible criteria for promotion to the post of regular Headmistress of Makhibaha Girls' High School, Nalbari, in terms of the Assam Secondary Education (Provincialised) Service Rules, 2003. The provisions of the Rules have been followed, in granting promotion to the petitioner. However, the Director is yet to give effect to the promotion of the petitioner, in terms of the approval given by the Government of Assam, without any discernable reasons. Thus, I find that there is no reason why the Director of Secondary Education Department, Government of Assam (respondent No.3) shall not give effect to the promotion of the petitioner as Headmistress of the Makhibaha Girls' High School, Nalbari.

(7) In view of above, the Writ Petition is disposed of with a direction to the respondent i.e. Director of Secondary Education Department, Government of Assam to give effect to the approval for promotion of the petitioner, namely, Smti Banti Sarma as the regular Headmistress of the Makhibaha Girls' High School, Nalbari, forthwith.

(8) The Writ Petition stands allowed. No order as to costs.

JUDGE

Comparing Assistant