

GAHC010050722022



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

Case No. : WP(C)/2133/2022

MD WAHAB ALI AND ANR

S/O- SHA ALI, R/O- VILLAGE NO. 2 MALIBARI PATHAR, P.O. MALIBARI
PATHAR BAZAR, DIST.- KAMRUP(R), ASSAM, WORKING AS 2ND TEACHER
(HEADMASTER) MALIBARI PATHAR PAMPARA L.P. SCHOOL, VILLAGE-
MALIBARI PATHAR, P.O. MALIBARI PATHAR BAZAR, DIST.-
KAMRUP(RURAL), ASSAM, PIN- 781136, DISE CODE NO. 18060203108.

2: SOFIUR RAHMAN

S/O- SOBUR HUSSAIN

R/O- VILLAGE- BAGURIGURI

P.O. MALIBARI PATHAR BAZAR

DIST.- KAMRUP(RURAL)

ASSAM

PIN- 781136

WORKING AS 2ND TEACHER (HEADMASTER)

PUB BATIAMARI BALIKA L.P. SCHOOL

VILL.- BATIAMARI

P.O. MALIBARI PATHAR BAZAR

DIST.- AKMRUP(RURAL)

ASSAM

PIN- 781136

DISE CODE NO. 18060201807)

VERSUS

THE STATE OF ASSAM AND 4 ORS

THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT
OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR,
GUWAHATI-781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM

KAHILIPARA

GUWAHATI-781019.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KAMRUP (RURAL)
AMINGAON
GUWAHATI.

4:THE DEPUTY INSPECTOR OF SCHOOLS
KAMRUP(R)
AMINGAON
GUWAHATI.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
CHAMARIA EDUCATION BLOCK CHAMARIA
DIST.- KAMRUP(R)
ASSAM

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 12.02.2024

Heard Mr. F. Haque, learned counsel for the petitioners. Also heard Mr. A. Phukan, learned standing counsel, Elementary Education Department of the Govt. of Assam.

2. The grievance of the petitioners are that they are serving as teachers of Malibari Pathar Pampara L.P. School and Pub Batiamari Balika L.P. School in the District of Kamrup(R). The Malibari Pathar Pampara L.P. School and Pub Batiamari Balika L.P. School were established on 01.01.1982 and 05.07.1985 respectively.

3. It is contended that the first teacher of the said schools have been provincialised. However, the petitioners, who are the second teachers, their services have not been provincialised. The petitioners are having all the eligibility criteria as per Section 3 of the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017 (in short, 'Act of 2017') which regulates provincialisation of the teachers of schools in the State of Assam.

4. The first teacher has been provincialised w.e.f. 01.01.2021 vide order dated 05.02.2021, while the

name of the petitioners have been dropped from such provincialisation. Being aggrieved, the petitioners are before this Court.

5. Section 14 of the Act of 2017 provides for an appeal before the State Government against any recommendation of the State Level Scrutiny Committee.

6. Considering that the Act of 2017 provides for an appeal, this writ petition is disposed of with a direction to the petitioners to file an appeal before the Secretary to the Govt. of Assam, Elementary Education Department separately within a period of 20 days from today. On such appeal being filed, the Secretary to the Govt. of Assam, Elementary Education Department shall consider the appeal by providing an opportunity of hearing to the petitioners and thereafter pass appropriate order in accordance with law within a period of two months from the date of receipt of the appeal.

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

No order as to costs.

JUDGE

Comparing Assistant