

GAHC010061142021



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

Case No. : WP(C)/2487/2021

BIRESH CH. ROY
S/O- LT. RAJ KANTA ROY, PO. JHAGRAPAR, P.S. AND DIST.- DHUBRI DIST.-
DHUBRI, ASSAM, PIN- 783325

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY ITS COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
DEPTT. (ELEMENTARY), DISPUR, ASSAM-06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
ASSAM

4:THE EXECUTIVE DIRECTOR
SARBA SIKSHA ABHIYAN MISSION (SSA)
ASSAM
KAHILIPARA
GHY-19

5:THE DISTRICT SCRUTINY COMMITTEE
DHUBRI
REP. BY ITS CHAIRMAN
DIST.- DHUBRI
ASSA

Advocate for the Petitioner : MR. P K DEKA
Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 10.01.2024

Heard Mr. P. K. Deka, learned counsel, appearing on behalf of the petitioner. Also heard Mr. S. M. T. Chistie, learned standing counsel, Elementary Education Department, appearing on behalf of the official respondents.

The claim of the petitioner in the present writ petition, is for provincialization of his services as Headmaster in Taranikanta ME School on the ground that the said school has an enrollment of students above 100. The services of the eligible teachers of the said school were taken-up for consideration for provincialization under the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, and the services of 3 teachers of the said school were so provincialized. However, the case of the petitioner for such provincialization was not considered.

In the present writ petition, the petitioner has contended that he was illegally deprived of provincialization of his services in spite of the fact that the said school had an enrollment of more than 100 students. Posed with the said position, this Court had required the learned standing counsel, Department of School Education, to place on record the enrollment status of the students of the said school.

Mr. Chistie, learned standing counsel, Elementary Education Department, has today placed on record, an instruction and therefrom, it is revealed that in the year 2016-17 and 2017-18, the enrollment position of the students in the said school were 79 and 60 respectively, as such, the said enrollment position being below 100, a post of Headmaster is not available to be allotted to the school, in question, and accordingly, the case of the writ petitioner cannot be considered for provincialization. Accordingly, the writ petition is without merit and the same therefore stands dismissed.

However, dismissal of this writ petition shall not bar the petitioner to approach the competent authority and/or Educational Tribunal, by highlighting the facts which would counter the disclosure made by the respondent authorities before this Court that the strength of the students' enrollment in the said school is below 100. In the event of any such appeal and/or proceeding is instituted by the petitioner before the competent authority and/or Educational Tribunal, the said authority and/or Educational Tribunal shall not be swayed by the observations made hereinabove and shall arrive at its decision basing on the merits of the materials produced before it, independently.

The copy of the instruction, dated 17.10.2023, as produced by Mr. Chistie, learned standing counsel, Elementary Education Department, shall be kept as a part of the record and marked as 'X' for identification.

JUDGE

Comparing Assistant