

GAHC010080992021



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

Case No. : WP(C)/3178/2021

MAHMUDA KHATUN
W/O. ABDUL BATEN AHMED, VILL. CHAILABARI PT. I, P.O. KIRTANPARA,
DIST. BANGAIGAON, ASSAM, PIN-783384.

VERSUS

THE STATE OF ASSAM AND 3 ORS
THROUGH THE SECRETARY TO THE GOVT. OF ASSAM, ELEMENTARY
EDUCATION, DISPUR, GHY.-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GHY.-19.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

BANGAIGAON
DIST. BANGAIGAON
ASSAM.

4:THE DISTRICT SCRUTINY COMMITTEE

BANGAIGAON REP. BY ITS CHAIRPERSON CUM DEPUTY COMMISSIONER
BANGAIGAON
DIST. BANGAIGAON
ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : GA, ASSAM

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

ORDER

Date : 20.03.2024

Heard Mr. M. H. Ahmed, learned counsel for the petitioner. Also heard Ms. N. Phukan, learned standing counsel, Elementary Education Department, appearing on behalf of respondents No. 1, 2 & 3; and Mr. B. Deuri, learned Government Advocate, appearing on behalf of respondent No. 4.

2. The petitioner who was a serving teacher in M. Balarchar Nava Jyoti M.E. Madrassa was appointed in the said school on 10.01.2001 and she had joined in her services as such on 16.01.2001. The petitioner, herein, was teaching the Arabic subject in the said school.

3. It is the contention of the petitioner that the cases of the serving teachers of the said school were taken-up for consideration by the respondent authorities for provincialization of their services under the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017.

4. In pursuance to the process as mandated under the provisions of the said Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017; the services of 3(three) serving teachers of the said school i.e. Abdul Kalam Azad, Atowar Rahman, and Amir Hussain; were provincialized as Tutors in the school in question.

It is seen that the services of the above-noted 3(three) teachers were so provincialized in the said school against the subjects of Language, Social Science and Mathematics & Science.

5. It is the projection made in this writ petition that the case of the petitioner although was required to be so provincialized in the said school given the enrollment status of the students therein; her case for provincialization was not considered although the petitioner was serving in the said school w.e.f. 16.01.2001.

6. In this connection, it is relevant to note that the provisions of Section 3 sub-section (xi) of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017; mandates that in a venture Upper Primary School; services of 3(three) serving teachers have to be provincialized either as Teachers or Tutors and at least, one teacher out of the said 3(three) teachers, provincialized; must be for: (a) Science & Mathematics; (b) Social Studies; and (c) Languages subjects.

7. In the case on hand; it is seen that the provisions of Section 3(xi) of the said Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, has been complied with by the respondent authorities and the petitioner has also not assailed the provincialization as so effected in the case of the persons, named hereinabove, in the present proceedings.

8. In the above view of the matter; there being no allegation with regard to the provincialization as effected by the respondent authorities in the case of the 3(three) serving teachers, referred to hereinabove, which has been held by this Court to be in

compliance with the provisions of Section 3(xi) of the said Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017; the petitioner, herein, in the considered view of this Court, is, therefore, not entitled to any relief as prayed for by her, in the present proceedings.

9. In view of the above; the instant writ petition stands dismissed. There shall be no order as to costs.

10. Interim order, if any, stands vacated.

11. However, considering the submissions made by Mr. Ahmed, learned counsel for the petitioner, that the said school had the requisite enrollment status of the students warranting sanctioning of 1(one) more post of an Assistant Teacher in the said school; the dismissal of this writ petition will not stand in the way of the petitioner in preferring a representation in this connection before the Director, Elementary Education Department, Assam, staking her claim for an additional post of an Assistant Teacher being sanctioned to the said school by establishing the requirement of the same basing on the enrollment status of the students therein, in the said school as on the date when the said school was considered by the respondent authorities for provincialization.

12. In the event of any such representation being preferred by the petitioner before the Director, Elementary Education Department, Assam; the same shall be considered and disposed of on its own merit in accordance with law.

JUDGE

Comparing Assistant