

GAHC010101242020



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

Case No. : WP(C)/3326/2020

OMED ALI MONDAL
S/O- MOKBUL HOSSAIN MONDAL, R/O- VILL- DINGDINGA PART-II, P.O.
CHIRAKUTI, P.S. FAKIRGANJ, DIST.- DHUBRI, ASSAM, PIN- 783330

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF
ELEMENTARY EDUCATION, DISPUR, GHY-06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
GHY-19

3:THE STATE LEVEL SCRUTINY COMMITTEE
KAHILIPARA
GHY
DIST.- KAMRUP (M)
ASSAM
PIN- 781019

4:THE DISTRICT LEVEL SCRUTINY COMMITTEE
DHUBRI
DIST.- DHUBRI
REP. BY THE DY. COMMISSIONER
DHUBRI (CHAIRMAN) OF THE DISTRICT LEVEL SCRUTINY COMMITTEE
DHUBRI
PIN- 783330

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
PIN- 783330

6:THE DY. COMMISSIONER
DHUBRI
PIN- 783330

7:THE HEADMASTER
DINDINGA GAURANTARI GIRLS ME MADRASSA
PIN- 783330

8:SHAHAZUR RAHMAN
HEADMASTER
DINDINGA GAURANTARI GIRLS ME MADRASSA
PIN- 78333

Advocate for the Petitioner : MS. K JAIN,

Advocate for the Respondent : SC, ELEM. EDU, MR. D P CHALIHA,MS M ROY,GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 02.08.2024

- 1.** Heard Ms. K. Jain, learned counsel for the petitioner.
- 2.** Also heard Mr. P.N. Sarma, learned Standing counsel, Elementary Education Department, for respondent No. 1, 2, 3 & 5; Ms. T. Hazarika, learned Government Advocate, for respondent Nos. 4 & 6 and Mr. D.P. Chaliha, learned senior counsel, assisted by Ms. M. Roy, for respondent Nos. 7 & 8.
- 3.** The petitioner was initially appointed on the basis of an Appointment Letter dated 28.10.2007 as Assistant Teacher in Dindinga Gaurantari Girls M.E. Madrassa. The petitioner joined to the said post on 01.11.2007. The petitioner is Graduate in Arts and also has Diploma in Education and is continuing in service

as Assistant Teacher of the said Dindinga Gaurantari Girls M.E. Madrassa. The said Madrassa received recognition on 29.12.2005.

4. Thereafter, the names of the Teaching and Non-teaching Staff of the said Dindinga Gaurantari Girls M.E. Madrassa were forwarded to the District Scrutiny Committee for provincialization of their services under the Assam Education (Provincialization of Services of Teachers and Reorganization of Educational Institutions) Act of 2017 (Act of 2017 in short). The District Scrutiny Committee recommended the case of the petitioner for provincialization as a Social Science Teacher and the respondent No. 8 as a Language Teacher. However, the State Level Scrutiny Committee considered only the case of the respondent No. 8 and accordingly, the Director of Elementary Education, Assam issued an order on 05.02.2021 provincializing the service of the respondent No. 8 as a Tutor.

5. The respondent Nos. 7 & 8 have filed counter affidavits and in the said affidavit, it is stated that the petitioner is junior to three other teachers of the said Madrassa including the respondent No. 8.

6. Considering that there is a disputed question of fact involved with regard to the seniority as well as the eligibility between the petitioner and the respondent No. 8, this Court is of the considered opinion that it would be just and proper if the petitioner files an appeal before the State Government against the recommendation of the State Level Scrutiny Committee.

7. Accordingly, this writ petition is disposed of directing the petitioner to file an appeal under Section 14 of the Act of 2017 before the State Government within a period of 1 (one) week from today. Thereafter, the State Government, on receipt of the said appeal, shall hear the petitioner as well as the respondent No. 8 in person and thereafter, on verification of all relevant documents, shall

dispose of the appeal filed by the petitioner in accordance with law within a period of 2 (two) months from the date of receipt of the appeal.

8. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant