

GAHC010103642024



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

Case No. : WP(C)/2736/2024

RAKIBUL ISLAM
S/O- LATE AYNAL HOQUE,
R/O- GUNIALGURI,
P.O.- GUNIALGURI,
P.S.- KALGACHIA,
DISTRICT- BARPETA, ASSAM,
PIN- 781319.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
ELEMENTARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI- 6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 19.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

BARPETA.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
RUPSHI BLOCK
KALGACHIA.

5:THE DEPUTY COMMISSIONER CUM CHAIRMAN
DISTRICT LEVEL COMMITTEE
BARPETA

Advocate for the Petitioner : MRS. K DEVI

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 27.06.2024

Heard Ms. K. Devi, learned counsel for the petitioner. Also heard Mr. P. K. Bora, learned standing counsel, Elementary Education Department for the respondent Nos. 1, 2 and 4 and Mr. B. Deuri, learned Govt. Advocate for the respondent No.5.

2. The father of the petitioner late Aynal Hoque while serving as Head Teacher of 1127 No. Bogulmari L. P. School, died-in-harness on 07.11.2006. As the petitioner was a minor, the mother of the petitioner made an application for appointment on compassionate grounds on behalf of the petitioner on 01.02.2007. However, the said application was not considered and therefore, the petitioner after attaining the age of majority, made an application on 25.07.2016 for appointment on compassionate grounds. The application of the petitioner was considered by the DLC of Barpeta District in its meeting held on 01.10.2011 and the case of the petitioner was rejected on the ground that the application was not submitted within the prescribed period of 1(one) year from the date of death.

3. Being aggrieved, the petitioner filed a writ petition before this Court which

was registered as WP(C)/6838/2023 challenging his rejection. The said writ petition was disposed of by an order dated 29.11.2023 by setting aside the rejection of the case of the petitioner by the DLC in its meeting held on 01.10.2021 and the matter was remanded back to the DLC of Barpeta District for a fresh consideration by taking note of the proposition laid down by the Hon'ble Supreme Court in its judgment in *Syed Khadim Hussain Vs. State of Bihar and Others reported in (2006) 9 SCC 195*.

4. Thereafter the District Level Committee, Barpeta District again considered the case of the petitioner in its meeting held on 07.02.2024, wherein, the DLC decided to place the proposal in the next DLC after receipt of clarification of this Court's order dated 22.11.2023, passed in WP(C)/6115/2021 from the Government. Being aggrieved, the present writ petition.

5. Ms. K. Devi, learned counsel for the petitioner submits that the order dated 22.11.2023, passed in WP(C)/6115/2021 has no bearing in the case of the petitioner, inasmuch as, the said order was passed in a different writ petition which did not concern the petitioner.

6. Mr. B. Deuri, learned Govt. Advocate on instructions submits that the case of the petitioner will be placed in the next DLC for further consideration.

7. Recording the submission made by the learned Govt. Advocate, this writ petition is accordingly disposed of by setting aside the minutes of the DLC of Barpeta District held on 07.02.2024 insofar as the petitioner is concerned. The

matter is again remanded back to the DLC to reconsider the case of the petitioner in accordance with law in its next immediate sitting.

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

JUDGE

Comparing Assistant