

GAHC010126322024



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

Case No. : WP(C)/3321/2024

AINAL HOQUE
S/O- LATE HASEM ALI,
R/O- VILLAGE- BHUTPUKHURI,
P.O.- NO. 1 PUNIA,
DIST.- DARRANG.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
ELEMENTARY EDUCATION DEPARTMENT,
DISPUR-06, ASSAM.

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

3:THE STATE LEVEL SCRUTINY COMMITTEE
REPRESENTED BY ITS CHAIRMAN CUM DIRECTOR
ELEMENTARY EDUCATION
KAHILIPARA

GUWAHATI.

4:THE DISTRICT LEVEL SCRUTINY COMMITTEE
REPRESENTED BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER
DARRANG

DIST.- DARRANG.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

DARRANG
DIST.- DARRANG

Advocate for the Petitioner : MR. H ALI

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 28.06.2024

Heard Mr. H. Ali, learned counsel for the petitioner. Also heard Ms. N. Phukan, learned standing counsel, Elementary Education Department for the respondent Nos. 1, 2, 3 and 5 and Ms. D. D. Barman, learned Addl. Senior Govt. Advocate for the respondent No.4.

2. The Bhutpukhuri Janajagaran M. E. Madrassa was established in the year 1990 and the petitioner on the basis of a resolution dated 20.03.2005 adopted by the Managing Committee of the said School was appointed as Assistant Teacher (Social Studies) to which post the petitioner joined on 21.03.2005. The Bhutpukhuri Janajagaran M. E. Madrassa was given recognition on 01.01.2005 and the post held by the petitioner was approved by the concerned authority on 07.03.2007.

3. The process for provincialisation of teaching and non-teaching staff of the said Bhutpukhuri Janajagaran M. E. Madrassa was started in terms of the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institution) Act, 2017 (Act of 2017 in short). The District Scrutiny

Committee in its report recommended the case of the petitioner along with three other teachers for provincialisation. The State Scrutiny Committee however did not consider the case of the petitioner as recommended by the District Scrutiny Committee and instead, provincialised the service of the said other teachers.

4. Being aggrieved, the petitioner approached this Court by filing WP(C)/1849/2021 claiming that the Bhutpukhuri Janajagaran M. E. Madrassa in which the petitioner is teaching has an enrollment of about 163 students in Class-V to Class-VII for the year 2016 and 190 students for the year 2015 and therefore it was the stand of the petitioner that the said school in terms of Section 3(1) (Xi) of the Act of 2017, requires four teachers as stipulated in the schedule under Section 19 and 25 of the Right of Children to Free and Compulsory Education Act, 2009. The said writ petition was disposed of by order dated 11th of August, 2022 directing the petitioner to file an appeal under Section 14 of the Act of 2017.

5. Thereafter, the petitioner filed the appeal before the concerned Secretary, Govt. of Assam, Department of School Education as directed by this Court by order dated 11th of August, 2022.

6. The Secretary to the Govt. of Assam, Department of School Education thereafter considered the appeal filed by the petitioner and by an order dated 29.05.2023, disposed of the appeal directing the Director of Elementary Education, Assam to place the matter again before the State Level Scrutiny Committee meeting for consideration of provincialisation of the service of the petitioner.

7. The grievance of the petitioner in the present writ petition is that despite the direction given by the Secretary to the Govt. of Assam, Department of School Education by the order dated 29.05.2023 for placing his case before the State Level Scrutiny Committee, the same has not been done till date.
8. Ms. N. Phukan, learned standing counsel, Elementary Education Department submits that the matter can be disposed of by giving a direction to the Director of Elementary Education to do the needful in terms of the order dated 29.05.2024.
9. After hearing the learned counsel for the parties and on consideration of the materials available on record, this writ petition is disposed of directing the Director of Elementary Education Assam/respondent No.2 to place the case of the petitioner for consideration of provincialisation of his service before the State Level Scrutiny Committee in terms of the order dated 29.05.2023, issued by the Secretary to the Govt. of Assam, Department of School Education forthwith.
10. With the above observations and directions this writ petition is disposed of.

JUDGE

Comparing Assistant