

GAHC010146842021



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

Case No. : WP(C)/5384/2021

AMIR HAMJA
S/O LATE AKKAS ALI
VILLAGE HAHCHORI,
PO KALATOLI, DIST KAMRUP, ASSAM, 781136

VERSUS

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

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

KAMRUP. ASSAM

4:THE DISTRICT SCRUTINY COMMITTEE
KAMRUP
REPRESENTED BY ITS CHAIRPERSON CUM DEPUTY COMMISSIONER
KAMRUP
ASSA

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : GA, ASSAM

Linked Case : I.A.(Civil)/451/2024

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KAMRUP ASSAM

Advocate for : MR M H AHMED
Advocate for : GA ASSAM appearing for THE STATE OF ASSAM AND 3 ORS.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 26.04.2024

Heard Mr. M. H. Ahmed, learned counsel for the petitioner. Also heard Mr. A. Phukan, learned standing counsel, Elementary Education Department, appearing on behalf of respondents No. 1, 2 & 3; and Mr. G. Pegu, learned Addl. Senior Government Advocate, appearing on behalf of respondent No. 4.

2. The petitioner by way of instituting the present proceedings, has raised a

grievance with regard to the discrimination meted-out to him in not considering his case for provincialization of his services as an Arabic Teacher in Uttar Jurshimli Puran Kushia M.E. Madrassa.

3. It is the contention of the petitioner that he was appointed in the said school on 28.11.1997 and had joined his services on 30.11.1997, in the said school. The cases of the eligible teachers of the said school were taken-up for consideration 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. However, it is the contention of the petitioner, herein, that the District Scrutiny Committee(DSC) did not recommend his name for provincialization of his services.

4. It is also the contention of the petitioner that 2(two) posts out of 3(three) posts allotted to the said school has already been filled-up and the post of Social Science teacher was not so filled-up in-as-much as the name of the teacher, teaching the subject of Social Studies in the school was not to be captured in the U-DISE Code maintained for the said school w.e.f. 2006-07 till 2015-16.

5. It is the submission of Mr. Ahmed, learned counsel for the petitioner, that as 1(one) post is presently lying vacant in the school and considering the seniority of the petitioner herein; the respondent authorities are required to consider the case of the petitioner for provincialization of his services.

6. As noticed hereinabove, the case of the petitioner, herein, not having been recommended by the District Scrutiny Committee (DSC); the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, provides that in such a situation, the teacher concerned is at liberty to approach the State Level Scrutiny Committee(SLSC) by way of preferring an appeal under the provisions of Section 14 of the said Act of 2017.

7. In view of the said position; the petitioner, herein, is directed to prefer an appeal before the State Level Scrutiny Committee(SLSC) through the Director, Elementary Education Department, Assam, within a period of 30(thirty) days from today.

8. In the event, the petitioner prefers an appeal under the provision of Section 14 of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, before the Director, Elementary Education Department, Assam; the same shall be processed and placed before the State Level Scrutiny Committee(SLSC) for further scrutiny.

9. The State Level Scrutiny Committee(SLSC), on the case of the petitioner being placed before it, shall verify the particulars of the petitioner and for this purpose, shall exercise the powers vested in it under the provisions of Section 13(11) of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017. The State Level Scrutiny Committee(SLSC) shall also ascertain as to whether the petitioner is entitled to be so provincialized and/or there exists another teacher in the school having a

better claim. Upon such scrutiny, the State Level Scrutiny Committee(SLSC) shall proceed to dispose of the appeal of the petitioner strictly in accordance with the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017.

10. The Director, Elementary Education Department, Assam, shall, thereafter, take steps as may be required in the matter basing upon the decision as may be arrived at by the State Level Scrutiny Committee(SLSC) on the appeal of the petitioner. The decision that would be so arrived at upon the appeal of the petitioner, would be communicated to the petitioner in the form of a speaking order.

11. The exercise as now required to be carried-out in terms of the directions passed by this Court hereinabove, shall be so initiated and completed by the Director, Elementary Education Department, Assam, within a period of 3(three) months from the date of receipt of an appeal along with a certified copy of this order.

12. With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant