

GAHC010149812021



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

Case No. : WP(C)/5121/2021

SANKAR REANG
S/O- NANDAJAY REANG, A/T, MAILLOMONI TRIBAL LP SCHOOL,
HAILAKANDI, DISE CODE- 18230215005, VILL.- GUTGUTI, P.O.-
RAMNATHPUR, DIST.- HAILAKANDI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 9 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GUWAHATI-06

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE MISSION DIRECTOR

RASHTRIYA MADHYAMIK SIKSHA ABHIYAN
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE DIRECTOR

SARBA SIKSH ABHIYAN MISSION
ASSAM
KAHILIPARA
GUWAHATI-19.

5:THE EXECUTIVE DIRECTOR

SARBA SIKSHA ABHIYAN MISSION
ASSAM
KAHILIPARA
GUWAHATI-19.

6:THE DEPUTY COMMISSIONER

HAILAKANDI
P.O.
P.S. AND DIST. HAILAKANDI
ASSAM.

7:THE STATE LEVEL SCRUTINY COMMITTEE

REP. BY THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

8:THE DISTRICT SCRUTINY COMMITTEE

REP. BY THE DEPUTY COMMISSIONER
HAILAKANDI
P.O.
P.S. AND DIST. HAILAKANDI
ASSAM.

9:DISTRICT ELEMENTARY EDUCATION OFFICER

HAILAKANDI
P.O.
P.S. AND DIST. HAILAKANDI
ASSAM.

10:DISTRICT MISSION CO-ORDINATOR
SAA

HAILAKANDI
P.O.
P.S. AND DIST. HAILAKANDI
ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : SC, ELEM. EDU

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

Judgment & Order(Oral)

Date : 01-04-2024

Heard Mr. A. M. Barbhuiya, learned counsel for the petitioner. Also heard Mr. A. Phukan, learned Standing Counsel for the Elementary Education Department and Mr. S. Borah, learned Standing Counsel for the RMSA and the SSAM, Assam.

2. The petitioner, by instituting the present proceeding has prayed for a direction upon the respondent authorities to consider his case for provincialisation and for issuance of order, provincialising his services on such consideration being made.

3. It is the case of the petitioner that his case was duly recommended by the District Scrutiny Committee, however, thereafter the case was not further considered and as there was no response from the authorities in the matter, he was constrained to institute the present proceeding.

4. This Court vide order dated 18.03.2024, passed in the present proceeding, required the learned Standing Counsel Mr. A. Phukan to place before this Court, the manner in which the case of the petitioner was considered by the respondents. In response thereto, Mr. Phukan, has placed before this Court a communication dated 28.03.2024, issued by the Director Elementary Education Department, Assam, wherein it has been stated that the recommendation as made in favor of the petitioner by the

District Scrutiny Committee, Hailakandi for provincialisation of the services as a teacher in Maillomoni Tribal L.P. School was placed before the State Level Scrutiny Committee and the said SLSC upon verification of the original land documents of the school has found the same to be doubtful. Accordingly, the SLSC did not recommend the name of the petitioner for provincialisation of his services against the said school.

5. The provisions of Section 3 (1) (iii) under the *Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017* mandates that the Venture Educational Institution, which is being considered for provincialisation of services of the serving teachers therein must have land in the name of the institution with clear and exclusive title and possession over the land before 01.06.2006 and no lease or rent or donor agreement executed at any point of time, shall not be considered in any manner for this purpose.

6. In the case on hand, the SLSC on examining the land documents submitted by the petitioner school having found the same to be doubtful, the petitioner's school is held to have not satisfied the eligibility criteria as mandated under Section 3 (1) (iii) of the said Act of 2017 and accordingly, this Court is not in a position to direct the respondent authorities to proceed to provincialise the services of the petitioner herein.

7. However, it is provided that the rejection of the case of the petitioner by the SLSC being on the ground that the land documents submitted by the petitioner was found to be doubtful, liberty is reserved to the petitioner to take appropriate steps as may be called for in the matter to comply with the provisions under Section 3 (1) (iii) of the said Act of 2017

and to demonstrate before the respondent authorities that the school in question has a clear and exclusive title and possession over the land in question and such possession existed before 01.06.2006. The petitioner for the purpose is permitted to file an appeal before the Secretary to the Government of Assam, Department of School Education, highlighting the above position and the Secretary to the Government of Assam, Department of School Education, in the event of receipt of such an appeal shall dispose of the same after providing an opportunity of hearing to the petitioner, within a period of 3(three) months from the date of receipt of the appeal.

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

JUDGE

Comparing Assistant