

GAHC010165002023



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

Case No. : WP(C)/4326/2023

NUR MUSTAFA JAMAN
W/O- LATE MUSHARAF HUSSAIN,
R/O- VILLAGE BARANGABARI,P.O- JANGALPARA,
DIST- DARRANG, ASSAM, PIN-784116

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION,
DISPUR, GUWAHATI- 781006

2:THE DIRECTOR
OF ELEMENTARY EDUCATION
ASSAM CUM THE CHAIRMAN OF STATE LEVEL SCRUTINY COMMITTEE
ASSAM KAHILIPARA GUWAHATI-19.

3:THE DISTRICT SCRUTINY COMMITTEE FOR ELEMENTARY EDUCATION
DARRANG REP. BY THE CHAIRMAN THE DEPUTY COMMISSIONER
DARRANG ASSAM PIN-784116

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER DARRANG
ASSAM PIN-784116

5:THE BLOCK ELEMENTARY EDUCATION OFFICER DALGAON
DIST- DARRANG ASSAM PIN-784116

6:ABDUL HAKIM S/O- AFSAR ALI R/O- VILLAGE BARANGABARI
P.O- JANGALPARA,P.S- KHARUPETIA DIST- DARRANG ASSAM PIN-78411

Advocate for the Petitioner : MR. R ISLAM
Advocate for the Respondent : SC, ELEM. EDU

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

ORDER

Date : 12.02.2024

Heard Mr. R. Islam, learned counsel for the petitioner. Also heard Mr. Bedanta Kaushik, learned standing counsel, appearing on behalf of respondents No. 1, 2, 4 & 5; and Mr. B. Deuri, learned Junior Government Advocate, appearing on behalf of respondent No. 3.

In view of the nature of the order being passed in the present proceedings, notice upon respondent No. 6 is not deemed necessary.

The petitioner by way of instituting the present writ petition, has raised a grievance with regard to non-consideration of the recommendations made in his favour by the District Level Scrutiny Committee(DLSC) in its meeting held on 05.12.2020 wherein, the said Committee on a review of its earlier recommendations, had recommended the name of the petitioner in place of Md. Abdul Hakim i.e. the respondent No. 6 for provincialization of his services.

The writ petitioner was initially appointed as an Assistant Teacher on 09.10.1999 by the School Managing Committee(SMC) of Barangabari M.E. Madrassa and he had joined his services on 11.10.1999. The school at that relevant point of time, was in the venture stage. The cases of the eligible teachers of the school were taken-up 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. The matter accordingly came to be placed before the jurisdictional District Level Scrutiny Committee(DLSC) and the said Committee in its meeting held on 04.07.2018, recommended the names of the following serving teachers of the school for provincialization of their services:

Sl. No.	Name of Teacher	Subject taught	Post held
1.	Jahangir Alom	Language Teacher	i/c Headmaster
2.	Hanif Ali	Science & Mathematics	Sc. Teacher
3.	Abdul Hakim	Language Teacher	Assistant Teacher

The name of the petitioner was placed in the list of teachers not recommended for provincialization of their services on account of low enrollment of the students. It is to be noted that the name of the petitioner was shown in the said list as a teacher teaching Social Studies Subject in the said school. The petitioner, on 30.01.2020, being aggrieved by the discrimination caused to him and the violation as made with regard to violation of provisions of Section 3(11) of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, preferred an appeal before the Director, Elementary Education Department, Assam, under Section 14 of the said Act of 2017.

The said appeal not being considered by the Director, Elementary Education Department, Assam, the petitioner approached this Court by way of instituting a writ petition being WP(c)1606/2020 and this Court, vide order, dated 02.03.2020, upon consideration of the matter, was pleased to dispose of the same by directing the Director,

Elementary Education Department, Assam, to consider the appeal of the petitioner, dated 30.01.2020, and to dispose of the same. It was further provided that till disposal of the appeal, the post of Assistant Teacher in the said school shall not be filled-up.

In pursuance of the proceedings as instituted before this Court; the matter of the petitioner was further processed and it again came to be placed before the jurisdictional District Level Scrutiny Committee(DLSC) in its meeting held on 05.12.2020. The said Committee after verifying the records and on arriving at a conclusion that the petitioner was eligible for being recommended for provincialization of his services; adopted a resolution to the effect that the name of the petitioner be replaced in the earlier recommendations made by the said Committee in place of Abdul Hakim.

The said recommendations as made by the jurisdictional District Level Scrutiny Committee(DLSC) was now required to be placed before the State Level Scrutiny Committee(SLSC) for further verification. It is the allegation of the petitioner in the present proceedings; that after the recommendations as made by the District Level Scrutiny Committee(DLSC) in its meeting held on 05.12.2020, no further action has been taken in the matter and the petitioner's case for provincialization of his services is unnecessarily being delayed.

In view of the above, and a right accruing to the petitioner for having his case considered for provincialization of his services in terms of the recommendations made by the jurisdictional District Level Scrutiny Committee(DLSC) in its meeting held on 05.12.2020, the Director, Elementary Education Department, Government of Assam, shall now place the case of the petitioner before the State Level Scrutiny Committee(SLSC) for verification of his particulars along with the particulars of the

respondent No. 6.

The State Level Scrutiny Committee(SLSC) on receipt of the proposal in this connection from the Director, Elementary Education Department, shall verify the same by exercising its powers under Section 13(11) of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, and on such verification, come to a definite conclusion with regard to the provincialization of his services.

In the event, the State Level Scrutiny Committee(SLSC) is of the view that it is the petitioner who is now required to be recommended for provincialization of his services, the said Committee shall before arriving at its final conclusion, afford an opportunity of hearing to the petitioner as well as respondent No. 6 and thereafter, make its recommendations as per the conclusions reached by the Committee.

The Director, Elementary Education Department, Government of Assam, on receipt of the recommendations from the State Level Scrutiny Committee(SLSC), shall proceed to take further steps as may be required in the matter and shall also communicate to the petitioner as well as the respondent No. 6, the conclusions that may have been arrived in the matter by the State Level Scrutiny Committee(SLSC).

The above exercise is required to be initiated and completed by the Director, Elementary Education Department, Government of Assam, including the consideration by the State Level Scrutiny Committee(SLSC) within a period of 3(three) months from the date of receipt of a certified copy of this order.

The petitioner shall submit a certified copy of this order before the Director, Elementary Education Department, Government of Assam, along with a forwarding to take the matter forward.

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

JUDGE

Comparing Assistant