

GAHC010174032021



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

Case No. : WP(C)/5945/2021

ANJUWARA KHATUN
W/O ABDUR ROSHID VILL- MAYER CHAR PTII
P.O. NAYER ALGA P.S. BILASIPARA DIST. DHUBRI,
ASSAM PIN-783349

VERSUS

1: THE STATE OF ASSAM AND 5 ORS REP. BY THE COMMISSIONER AND
SECRETARY TO THE GOVT. OF ASSAM, EDUCATION (ELEMENTARY)
DEPARTMENT, DISPUR, GUWAHATI-6.

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

3: THE DISTRICT SCRUTINY COMMITTEE FOR ELEMENTARY EDUCATION
REP. BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER OF DHUBRI
DISTRICT ASSAM PIN-783301

4: THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI DIST. DHUBRI ASSAM PN-783301

5: THE BLOCK ELEMENTARY EDUCATION OFFICER
BILASIPARA DIST. DHUBRI ASSAM PIN-783349

6: THE HEAD MASTER, UTTAR GHUNIMARI L.P. SCHOOL VILL- MAYER
CHAR PART-II P.O. NAYER ALGA P.S. BILASIPARA DIST. DHUBRI ASSAM
PIN-78334

Advocate for the Petitioner : MR. M ALI

Advocate for the Respondent : GA, ASSAM

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

ORDER

Date : 09-01-2024

Heard Mr. M.U. Mahmud, learned counsel for the petitioner. Also heard Mr. B. Talukdar, learned standing counsel, Education (Elementary) Department, representing the respondent Nos.1, 2, 4 & 5 and Mrs. D.D. Barman, learned Additional Senior Government Advocate, Assam, representing the respondent No.3.

The petitioner, by way of the present writ petition, has assailed the inaction on the part of the respondent authorities in not provincialising her services either under the provisions of the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011 (for short, "Act of 2011") or under the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 (for short, "Act of 2017").

The case as projected in the writ petition reveals that the School in question, namely, Uttar Ghunimari L.P. School, was taken up for provincialization and on completion of the process of consideration vide order dated 09.12.2013, i.e. with effect from 01.01.2013, the post of Head Teacher held by one Abdul Rashid was provincialised and the other post allotted to the School, i.e. the post of Assistant Teacher, was kept vacant. It is the contention of the petitioner that the District Level Committee initially, while forwarding its recommendations, had sent the name of a person not eligible for such provincialisation and for the reason of which, the case of the petitioner could not be considered. However, subsequently, the clarifications being issued, the case of the petitioner was found to be dropped on account

of an erroneous consideration made by the District Level Committee and accordingly, the District Elementary Education Officer vide his communication dated 07.05.2015 had communicated that the name of the petitioner was proposed as Assistant Teacher of Uttar Ghunimari L.P. School for provincialisation of services. Thereafter, vide communication dated 17.11.2018, the Government in the Education Department had directed the Director of Elementary Education, Assam to place the case of the petitioner before the State Level Committee for consideration towards provincialization of her services under the provisions of the said Act of 2017.

It is the case of the petitioner that thereafter the matter has not been proceeded with and it is hanging and the services of the petitioner is yet to be provincialised.

In view of the above, this writ petition is disposed of directing the Director of Elementary Education, Assam to forthwith have the case of the petitioner considered by the State Level Committee for provincialisation of her services in terms of the recommendation made by the District Level Committee and as indicated in the communication dated 07.05.2015 and 17.11.2018, referred to hereinabove. The said exercise be initiated and completed within a period of 3(three) months from the date of receipt of a certified copy of this order. The outcome of this exercise be communicated to the petitioner in the form of a speaking order and in the event the petitioner's services are found to be eligible to be provincialised, her such services shall be provincialised w.e.f. 04.02.2021. The said observation is made in view of the fact that the petitioner was deprived of her provincialisation of services for no fault of her and due to error committed by the departmental authorities.

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

JUDGE

Comparing Assistant