

GAHC010176032024



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

Case No. : I.A.(Civil)/2599/2024
in
WP(C) 1480/2024

BAHARUL ISLAM
S/O NUR UDDIN, R/O VILL AND P.O. SAIDPUR PART-V, P.S. SILCHAR, DIST.
CACHAR, ASSAM, PIN 788013.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY, TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI, ASSAM, PIN-
781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
ASSAM
PIN-781019

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KARIMGANJ
ASSAM

4:SRI SAMIN BAISHYA
S/O LATE GOPAL BAISHYA
BEEO
BARPETA
VILL- AND PO. KAKAYA
P.S. BELSOR
DIST. NALBARI
ASSAM
PIN-781304

5:SRI RAJENDRA KALITA
S/O LATE JIMMIJOY KALITA
BEEO
CHENGA EDUCATION BLOCK

BARPETA
R/O VILL- AND P.O. DASPARA
P.S. MUKALMUA
DIST. NALBARI
ASSAM
PIN-781126

6:BISWAJIT DEY
S/O LATE BHUPATI KUMAR DEY PRESENTLY BEEO
PATHARKANDI
MAHENDRA NIBASH
NATUN PATTY
SILCHAR
HOME DIST. CACHAR
ASSAM
PIN-78100

Advocate for the Petitioner : MR. S B LASKAR, MR N ZAMAN (R-5),MR. J AHMED (R-5),MS
A HUSSAIN (R-5)

Advocate for the Respondent : SC, ELEM. EDU, MR. B PURKAYASTHA

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

11-09-2024

Heard Mr. S. B. Laskar, learned counsel for the applicant and Mr. SMT Chistie, learned Standing Counsel, Elementary Education Department for the opposite party Nos. 1, 2 and 3. Also heard Mr. B. Purkayastha, learned counsel for the opposite party No.6.

2) The respondent No. 6 filed a writ petition being aggrieved with the Notification No. eCF No. 256222/307-AB dated 28.02.2024, issued by the Secretary to the Government of Assam in the Department of School Education, whereby, in the interest of public service and as per the guidelines of the Election Commission of India for the Parliamentary Election 2024, the respondent No.6, who was serving as a Block Elementary Education Officer at Patherkandi Education Block of District Karimganj was transferred and posted as BEEO of Barpeta Education Circle, District Barpeta w.e.f., the date of taking over charge vide one Samin Baishya, who was the BEEO, Barpeta transferred as BEEO of Chenga Education Block of Barpeta District.

3) The Court by its order dated 14.03.2024, while issuing notice in said WP(C) No. 1480/2024 directed the respondents therein to maintain status quo with regard to the transfer of the said respondent No. 6.

4) Mr. Laskar, learned counsel for the applicant submitted that before issuing the order dated 14.03.2024 by the Court in said WP(C) No. 1480/2024, the respondent authorities in the Secondary Education Department by order dated 13.03.2024 modified the transfer order of the respondent No.6 dated 28.02.2024 and reposted him as the BEEO at Patherkandi Education Block of Karimganj District, which the respondent No. 6 did not state before the Court on 14.03.2024 and thereafter.

5) By order dated 13.03.2024 the transfer of the applicant dated 28.02.2024, who was serving as the BEEO at Batadrava Education Block of District Nagaon and was transferred by

said order dated 28.02.2024 as the BEEO of Laharighat Education Block of district Morigaon, was modified and reposted him as BEEO at Barpeta Education Block of District Barpeta modifying the said transfer order of the respondent No.6.

6) After modifying the transfer order of the applicant as well as respondent No. 6 dated 28.02.2024 vide order dated 13.03.2024, by another notification dated 05.04.2024 the applicant was reposted as BEEO at Patherkandi Education Block of District Karimganj and in the same order the respondent No. 6 was transferred from Patherkandi Education Block and posted him as BEEO of South Salmara Education Block of District South Salmara-Mankachar.

7) Pursuant to the said order dated 05.04.2024 though the applicant was released from the office of the BEEO, Batadrava, Nagaon but he could not join as BEEO in the Patherkandi Education Block of Karimganj District pursuant to the said order of the Court dated 14.03.2024 stating further that as he could not join in the Patherkandi Education Block and presently without any service he is not getting any salary, whereas, in the connected writ petitioner the respondent No.6 did not make him a party.

8) Hence this application by the applicant Baharul Islam for his impleadment as party respondent No. 6 in the connected WP(C) No. 1480/2024, preferred by the respondent No. 6, which is yet to be disposed of.

9) According to the applicant, said WP(C) No. 1480/2024 has become infructuous since prior to the order dated 14.03.2024, passed in said writ petition, the respondent authorities in the Education Department already by order dated 13.03.2024 modified the order of transfer dated 28.02.2024 though the respondent No. 6 as petitioner in said WP(C) No. 1480/2024 challenged his transfer order dated 28.02.2024 that also includes the present applicant.

10) Mr. Purkayastha, learned counsel for the respondent No. 6 however, objected with regard to the impleadment of the applicant as party respondent No. 6 in the connected WP(C) No. 1480/2024.

11) After hearing the learned counsel for the parties and considering the entire aspect of the matter and on perusal of the transfer order dated 28.02.2024 of the applicant as well as that of the respondent No. 6, on perusal of the order dated 13.03.2024 reposting the applicant and the respondent No. 6 in their respective places of posting at Batadrava

Education Block and Patherkandi Education Block, respectively, and the new order of transfer and posting dated 05.04.2024 transferring the applicant as BEEO of South Salmara-Mankachar Education Block and the applicant as the BEEO of Patherkandi Education Block, the Court is of the opinion that the applicant, namely, Baharul Islam, son of Nur Uddin, resident of village & P.O. – Saidpur, Part-V, P.S.- Silchar, District – Cachar, Assam, Pin No. 788013 is a necessary party for proper adjudication of the connected WP(C) No. 1480/2024 preferred by the respondent No.6.

12) Accordingly, the applicant Baharul Islam be impleaded as party respondent No.6 in the connected WP(C) No. 1480/2024.

13) The Registry shall do the needful accordingly.

14) With the above observation and direction, this interlocutory application stands allowed.

JUDGE

Comparing Assistant