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

Case No. : WA/308/2024

MD ABUL HASEN
S/O LT. TURAB ALI VILL KESHARVITA P.O. JHOWDANGA DIST. SOUTH
SALMARA MANKACHAR ASSAM PIN 783131

VERSUS

ABDUL AKHER ALI AND 9 ORS
S/O LT. ABDUR RAHMAN VILL KESHARVITA P.O. JHOWDANGA DIST.
SOUTH SALMARA MANKACHAR ASSAM PIN 783131

2:THE STATE OF ASSAM
REP. BY THE SECRETARY GOVT. OF ASSAM DEPTT. OF SCHOOL
EDUCATION DISPUR GUWAHATI 6

3:THE PRINCIPAL SECRETARY
GOVT. OF ASSAM FINANCE DEPTT. DISPUR GUWAHATI 6

4:THE DIRECTOR
ELEMENTARY EDUCATION ASSAM KAHILIPARA GUWAHATI 19

5:THE DEPUTY COMMISSIONER
DHUBRI
P.O. AND DIST. DHUBRI ASSAM PIN 7833301

6:DISTRICT ELEMENTARY EDUCATION OFFICER
SOUTH SALMARA MANKACHAR HATSINGIMARI P.O. FEKAMARI DIST.
SOUTH SALMARA MANKACHAR ASSAM PIN 783135

7:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
P.O. AND DIST. DHUBRI ASSAM PIN 783301

8:THE BLOCK ELEMENTRAY EDUCATION OFFICER
SOUTH SALMARA MANKACHAR HATSINGIMARI
P.O. FEKAMARI DIST. SOUTH SALMARA MANKACHAR
ASSAM PIN 783105

9:THE HEADMASTER
CHUTO KESHARVITA L P SCHOOL
VIL. KESHARVITA P.O. JHOWDANGA
DIST SOUTH SALMARA MANKACHAR ASSAM PIN 783131

10:SAFIUL HOQUE
S/O LT NUR HUSSAIN R/O VILL. KESHARVITA
P.O.JHOWDANGA DIST. SOUTH SALMARA MANKACHAR
ASSAM PIN 78313

For the appellant : Mr. S.K. Talukdar,
Ms. T.R. Ovung,
Mr. A. Sayed, Advocates

For the respondents : Mr. U.P. Chaliha, Advocate for
Respondent No.1

Mr. R. Mazumdar, S.C., Elementary
Education for respondent Nos.2, 4, 6,
7 & 8

Mr. R. Borpujari, S.C., Finance
For respondent No.3

Ms. R.B. Bora, Govt. Advocate,
Assam, for respondent No.5

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI**HON'BLE MR. JUSTICE KAUSHIK GOSWAMI****09-12-2024***(Vijay Bishnoi, C.J.)*

This writ appeal is filed by on behalf of the appellant challenging the judgment and order dated 01.08.2024 passed by the learned Single Judge in WP(C) 4881/2023 and WP(C) 4564/2023 only to the extent where the learned Single Judge, while granting liberty to the writ petitioner, who has filed WP(C) 4564/2023 and has been impleaded as respondent No.1 in this writ appeal, to institute proceedings before the jurisdictional Educational Tribunal by invoking Section 19 (2) of The Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017, for establishing his claim for provincialisation of his services in the school in question within stipulated time. The learned Single Judge has also issued a direction to the respondent No.1 herein to implead Md. Safiul Hoque as well as the appellant Md. Abul Hasen, who were respondent Nos.9 and 10, respectively in WP(C) 4564/2023, as party respondents in such proceedings.

2. Mr. S.K. Talukdar, learned counsel for the appellant has submitted that, as a matter of fact, the learned Single Judge, by the impugned order has allowed the writ petition, being, WP(C) 4881/2023 filed on behalf of the appellant and has confirmed the provincialisation of his services on the post of Teacher in the subject of Social Studies/Science and has also issued direction to the State respondents to issue consequential orders within a period of 45 days from the date of passing of the impugned order.

Learned counsel has also submitted that the dispute regarding

provincialisation of services as teacher was in between the respondent No.1 and respondent No.10 herein and there is no dispute with regard to provincialisation of services of the appellant as Social Studies/Science Teacher.

It is further submitted that the direction issued by the learned Single Judge in paragraph 54 of the impugned judgment and order to the respondent No.1 herein to implead the appellant as well as the respondent No.10 herein as party respondents before the Educational Tribunal is unwarranted and the same may be interfered with.

3. Mr. U.P. Chaliha, learned counsel appearing for the respondent No.1 herein and the learned counsel appearing for the official respondents are also of the view that the direction issued by the learned Single Judge in paragraph 54 of the impugned judgment and order directing to implead the appellant as well as the respondent No.10 herein as party respondents is unwarranted because the actual dispute is between the respondent No.1 and respondent No.10 herein in respect of provincialisation of their services as teacher.

4. Despite service of notice upon the respondent No.10 herein, none has appeared on behalf of him.

5. Taking into consideration the fact that the actual dispute regarding provincialisation of services as teacher is between the respondent No.1 and respondent No.10 herein, it appears that the direction given by the learned Single Judge to the respondent No.1 herein to implead the appellant and the respondent No.10 herein as party respondents before the Educational Tribunal is unnecessary and unwarranted. Hence, this writ appeal is allowed and the impugned order of the learned Single Judge to the extent of directing the

respondent No.1 herein to implead the appellant as well as the respondent No.10 herein as party respondents in the Educational Tribunal is interfered with and the same is set aside.

6. We make it clear that the judgment and order dated 01.08.2024 passed by the learned Single Judge is interfered with only to the extent as clarified above and the other directions and observations of the learned Single Judge in the impugned judgment and order are not interfered with.

7. With these observations, this writ appeal is disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant