

GAHC010184902023



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

Case No. : WP(C)/4880/2023

ATAUR RAHMAN AHMED
S/O- SAFUR UDDIN AHMED, VILLAGE- DEBOTTAR HASDAHA PT-V, P.O.
DEBOTTAR HASDAHA, P.S. GOLAKGANJ, DISTRICT- DHUBRI, ASSAM, PIN-
783334

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY), DISPUR,
GUWAHATI-06

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

3:THE DEPUTY COMMISSIONER -CUM- CHAIRMAN OF DISTRICT
SCRUTINY COMMITTEE
DHUBRI
P.O. AND P.S. DHUBRI
DISTRICT- DHUBRI
ASSAM
PIN- 783301

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
P.O. DHUBRI
DISTRICT- DHUBRI
ASSAM
PIN- 783301

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
GOLAKGANJ
P.O. GOLAKGANJ
DIST.- DHUBRI
ASSAM
PIN- 783334

6:MR. JAKIR HOSSAIN PRODHANI
TUTOR OF DEBOTTAR HASDAHA M.E. MADRASSA
S/O- LT. SAIMAMMUD PRODHANI
VILL- KHEKSIALY
P.O. DEBOTTAR HASDAHA
P.S. GOLAKGANJ
DISTRICT- DHUBRI
ASSAM
PIN- 78333

Advocate for the Petitioner : MR. M R KHANDAKAR

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

13.05.2024

O R D E R

Heard Mr. M.R. Khandakar, learned counsel for the petitioner. Also heard Mr. A. Phukan, learned Standing Counsel, Elementary Education Department, Government of Assam, for respondent Nos.1, 2, 4 and 5; Mrs. D.D. Barman, learned Additional Senior Government Advocate, Assam, for respondent No.3 and Mr. M. Khan, learned counsel for the respondent No.6.

2. The petitioner had earlier filed WP(C) No.4296/2021 raising a grievance with regard to the provincialisation of service of the respondent No.6 as Language Tutor/Teacher (Assamese) in Debottar Hasdaha M.E. Madrassa in Dhubri district by ignoring the claim of the petitioner for provincialisation of his service, who is also a Language Teacher/Teacher (English) and senior to the respondent No.6.

3. The further case of the petitioner was that in terms of Section 14 of the *Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017* (in short, the Act of 2017), the petitioner had filed an appeal dated 03.08.2021 before the Director of Elementary Education, Assam. WP(C) No.4296/2021 was disposed of by order, dated 20.07.2022, directing the Director of Elementary Education, Assam to consider and dispose of the appeal dated 03.08.2021 filed by the petitioner as expeditiously as possible preferably within 45 days from the date of receipt of a copy of the said order. This Court further directed the petitioner and the respondent No.6 to appear before the respondent No.2/Director of Elementary Education, Assam on 01.08.2022 along with the copy of the order dated 20.07.2022 passed in WP(C) No.4296/2021 to enable the Director of Elementary Education, Assam to do the needful.

4. Thereafter, the Director of Elementary Education, Assam, passed an order, dated 29.11.2022, informing the petitioner that the claim of the petitioner for provincialisation of services could not be considered and, accordingly, the claim was rejected.

5. Being aggrieved with the order, dated 29.11.2022, the petitioner is before this Court by way of the present writ petition.

6. This Court has considered the order, dated 29.11.2022, passed by the respondent No.2.

7. A perusal of the said order does not indicate whether the appeal filed by the petitioner on 03.08.2021 was considered or not. Further, the order, dated 29.11.2022, only reflects that the name of the petitioner was not recommended by the District Scrutiny Committee for provincialisation of his service under the Act of 2017. It also indicates that the name of the petitioner could not be recommended by both the Committees for provincialisation of his service as per the Act of 2017

as the name of the petitioner was not recommended by the District Scrutiny Committee, Dhubri for provincialisation of service as per the Act of 2017. It appears that the respondent No.2 proceeded only on the ground that as the case of the petitioner was not recommended by the District Scrutiny Committee, Dhubri and, as a result, both the Committees could not recommend the case of the petitioner for provincialisation.

8. In that view of the matter, the matter is remanded back to the respondent No.2/Director of Elementary Education, Assam to consider the appeal dated 03.08.2022 filed by the petitioner after giving an opportunity of hearing to both the petitioner as well as the respondent No.6. Thereafter, respondent No.2 shall dispose of the appeal by a speaking order and in accordance with law within a period of two months from the date of receipt of a copy of the order of this Court.

9. The order, dated 29.11.2022, issued by the Director of Elementary Education, Assam is accordingly set aside and quashed.

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

JUDGE

Comparing Assistant