

GAHC010195692022



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

Case No. : WP(C)/6480/2022

PUB BARALIMARI HIGH SCHOOL
REPRESENTED BY ITS HEAD MASTER CUM MEMBER SECRETARY ABDUL
KADIR ZILLANI, B.A., B.T., AGED ABOUT 59 YEARS, PUB- KALADUBA,
P.O.- PUB- BARALIMARI, P.S. JURIA, DISTRICT- NAGAON, ASSAM, PIN-
782124.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT, DISPUR,
GUWAHATI-6.

2:THE STATE LEVEL SCRUTINY COMMITTEE
REPRESENTED BY ITS CHAIRMAN-CUM-DIRECTOR OF SECONDARY
EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DISTRICT SCRUTINY COMMITTEE
REPRESENTED BY THE CHAIRMAN-CUM-DEPUTY COMMISSIONER
NAGAON
ASSAM
PIN- 782002.

4:INSPECTOR OF SCHOOLS
NAGAON DISTRICT CIRCLE
NAGAON
ASSAM

Advocate for the Petitioner : MR. S K DAS

Advocate for the Respondent : SC, SEC. EDU.

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

Judgment & Order (Oral)

Date : 09.02.2024

Heard Mr. S. K. Das, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned standing counsel for Secondary Education Department representing the respondents no. 1, 2 & 4 and Ms. D. Das Barman, learned Junior Government Advocate for respondent no. 3.

2. The grievance raised by the petitioner in the present proceedings is with regard to the action/inaction on the part of the respondent authorities in not considering the cases of the teaching staffs of Pub-Baralimari High School, Nagaon for provincialisation of their services under the provisions of the *Assam Education (Provincialisation of Services of Teachers & Re-Organisation of Educational Institutions) Act, 2017* (for short, the Act of 2017),

3. The petitioner, in the writ petition has projected that the Pub-Baralimari High School, Nagaon was established in the year 1982 by the people of Pub-Kaladuba village and its surrounding areas. The school is contended to have its own land donated by the patrons of the school. The

school was recognized by the Government and such recognition/permission granted from time to time now extends to class-10 in the school.

4. It is stated that the petitioner school has superior infrastructure facilities and the students of the school were faring well in the HLSC exams conducted by the Secondary Education Board of Assam (SEBA). The process of provincialisation of the services of the teachers in the venture institutions having been initiated by the authorities under the provisions of the said Act of 2017, the particulars of the teaching staff of the petitioner school came to be submitted. However, for reasons not disclosed, the case of the serving teachers for the petitioner school were not placed for consideration by the designated committees under the Act of 2017, resulting in the teaching staff of the said school being deprived of the benefits of provincialisation of their respective services. The teaching staff of the petitioner school has been approaching the authorities from time to time ventilating their grievances with regard to the denial to them the benefits of provincialisation of their services under the provisions of the said Act of 2017. The departmental authorities of the district had also forwarded the claims made by the petitioners before the higher authorities of the department; however, the cases of the petitioners have remained unattended to.

5. The Headmaster of the petitioner school on 08.09.2022, on behalf of the teaching staffs submitted a representation before the Director of

Secondary Education Department, Assam praying for consideration of the cases of the teaching staff of the said school for provincialisation of their services under the provisions of the Act of 2017. In the said representation, the complete details of the school including the infrastructure available, the enrolment of students in the school, performance of the students in the HLSC examinations as well as the DISE score allotted to the school were spelt out.

6. It is the contention of the learned counsel for the petitioner that the said representation dated 08.09.2022 although received by the office of the Director of Secondary Education Department, Assam, the same has not been given its due consideration till date.

7. On an examination of the materials brought on record, this Court is of the view that the case of the teaching staff of the said school have to be considered by the respondent authorities and on such a consideration, if they are found to have satisfied the eligibility criteria as mandated for provincialisation of services of serving teachers in venture educational institutions under the Act of 2017, the teaching staff in the petitioner school are also required to be extended the benefits of provincialisation of their services.

8. In view of the above, this writ petition is disposed of, directing the Director of Secondary Education Department, Assam to take on record the said representation dated 08.09.2022, preferred by the Headmaster of the

petitioner school on behalf of the teaching staffs therein and thereafter, on examination of the matter, initiate the process for provincialisation of the services of the serving teaching staffs of the petitioner's school by having their cases considered by the jurisdictional DLSC and thereafter, basing on the recommendations made by the DLSC, the same has to be verified by the SLSC in terms of the provisions of Section 13(xi) of the said Act of 2017 by the SLSC.

9. The Director of Secondary Education Department, Assam, shall thereafter, basing on the recommendations made by the SLSC take further necessary steps for effecting the process of provincialisation of services of eligible teaching staffs of the petitioner school so recommended and issue order(s) thereof, accordingly.

10. In the event, it is found that the services of either all, or any of the serving teachers in the petitioner school are not entitled to be extended with the benefits of provincialisation of their services, Director of Secondary Education Department, Assam, shall record the reason(s) thereof and communicate the same to such of the serving teaching staff of the petitioner school not found entitled for provincialisation in the form of a speaking order.

11. The above exercise as required for the Director of Secondary Education Department, Assam, shall be carried out and concluded within a period of 3(three) months from the date of receipt of a certified copy of

this order.

12. The Headmaster of the petitioner school shall submit a certified copy of this order along with a copy of the representation dated 08.09.2022 and the individual particulars of each of the serving teaching staff of the petitioner school to the Director of Secondary Education Department, Assam, for taking the matter forward.

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

JUDGE

Comparing Assistant