

GAHC010229382022



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

Case No. : WP(C)/7218/2022

BABITA PAO
D/O- PRATAP CH. PAO, R/O- VILL- KANON GURI VILLAGE, P.O. AND P.S.
JONAI, DIST.- DHEMAJI, ASSAM, PIN- 787060, MUSIC TEACHER OF
BIJOYPUR HIGH SCHOOL

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMM. AND SECY. OF GHY-06

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-06

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

4:THE INSPECTOR OF SCHOOL
D.D.C. DHEMAJI DISTRICT
PIN- 785640

5:THE DISTRICT SCRUTINY COMMITTEE
DHEMAJI DISTRICT
REP. BY ITS CHAIRMAN
THE DY. COMMISSIONER
DHEMAJI
ASSAM
PIN- 785640

6:THE HEAD MASTER OF THE SCHOOL
BIJOYPUR HIGH SCHOOL
DIST.- DHEMAJI
PIN- 78564

Advocate for the Petitioner : MRS A BUJARBARUAH

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 22-04-2024

Heard Ms. A. Bujarbaruah, learned counsel for the petitioner. Also heard Mr. P. Borah, learned Standing Counsel, Secondary Education Department appearing for the respondent No. 1, 3 and 4. Also heard Mr. B. Gogoi, learned Standing Counsel, Finance Department appearing for respondent No.2 and Ms. D. Das, learned Additional Senior Government Advocate, Assam appearing for the respondent No. 5. None has entered appearance for the respondent No. 6.

The petitioner by way of the present proceeding has raised a grievance with regard to non-consideration of her case for provincialisation of her services as Music teacher in Bijoypur High School.

The petitioner herein was appointed by the School Managing Committee of Bijoypur High School on 09.10.2005, as a Music teacher in the school. At the relevant point of time, the school was in its venture stage. In pursuance to the enactment of the *Assam Venture Educational Institutions (Provincialisations of Services) Act, 2011*, the cases of the eligible serving teachers of the said school were taken up for consideration for provincialisation of their services. Accordingly, upon

conclusion of the process involved, the services of the eligible teachers of the said school came to be provincialised with effect from 01.01.2013. However, the case of the petitioner was not considered for provincialisation of her services. It is the contention of the petitioner that steps were subsequently taken for having the case of the petitioner re-verified for the purpose of provincialisation of her services. However, the said process could not be taken to its logical conclusion before setting aside of the said Act of 2011 by this Court. Thereafter, upon enactment of the *Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017*, the case of the petitioner was again placed before the jurisdictional District Scrutiny Committee for verification of her service particulars. It is the contention of the petitioner that upon such verification, the District scrutiny committee had recommended the case of the petitioner for provincialisation of her services. Accordingly, a proposal in this connection was placed before the Director of Secondary Education Assam, by the jurisdictional Inspector of Schools vide a communication dated 14.10.2020. However, the said process having not been taken to its logical conclusion, the petitioner has instituted the present proceedings.

The materials as placed on record reveals that the case of the petitioner was recommended by the jurisdictional District Scrutiny Committee and such recommendation was placed before the Director of Secondary Education, Assam for further consideration in terms of the provisions of the Act of 2017. Accordingly, this Court is of the considered view that a right has accrued to the petitioner herein for having her case considered for provincialisation of her services, in accordance with the

provisions of the said Act of 2017 and the respondent authorities are bound to extent to her such consideration.

In view of the above position, the petitioner is hereby directed to submit a detailed representation before the Director of Elementary Education Assam, enclosing therein her service particulars as well as the other requisite particulars as may be mandated in the matter for provincialisation of her services, within a period of 30(thirty) days from today.

On receipt of such representation from the petitioner, the Director of Secondary Education, Assam shall place the recommendation as made in the case of the petitioner by the jurisdictional District Scrutiny Committee, before the State Level Scrutiny Committee (SLSC). The SLSC shall thereafter, scrutinize the particulars of the petitioner and shall also ascertain as to whether the petitioner fulfils the eligibility criteria as prescribed under the provisions of Section 4(2)(iv) of the said Act of 2017. The SLSC shall also ascertain if the petitioner is in continuous services in the school in terms of the provisions of Section 4(2) (iii) of the Act of 2017. The SLSC upon making a due scrutiny as mandated, shall render its recommendation in the matter. It is provided that in the event the case of the petitioner has not been placed before the jurisdictional District Scrutiny Committee, the Director of Secondary Education Assam, shall take appropriate steps for having the case of the petitioner placed before the jurisdictional District Scrutiny Committee and thereafter, proceed in the matter basing on the recommendation of the District Scrutiny Committee and in terms of the directions as passed hereinabove.

The aforesaid exercise as now required to be carried out by the Director of Secondary Education, Assam be so initiated and concluded within a period of 6(six) months from the date of receipt of the representation from the petitioner herein along with a certified copy of this order.

In the event, it is found that the petitioner is not eligible for having her services provincialised under the provisions of the said Act of 2017, the Director of Secondary Education, Assam, by incorporating the reasons as to why the petitioner has been held to be ineligible for having her services provincialised, issue a speaking order and communicate the same to the petitioner.

With the above observations and directions the writ petition stand disposed of.

JUDGE

Comparing Assistant