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

Case No. : WP(C)/5872/2024

NUR BAHAR SHEIKH
S/O- LATE ABDUL WAHED, VILLAGE- MATHAKATA, P.O.- JAMADARHAT,
P.S. FAKIRGANJ, DIST- DHUBRI, ASSAM, PIN- 783330

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL (ELEMENTARY) EDUCATION, DISPUR,
GUWAHATI-6

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

3:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

4:THE DISTRICT SCRUTINY COMMITTEE
DHUBRI FOR ELEMENTARY EDUCATION
REPRESENTED BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER OF
DHUBRI DISTRICT
ASSAM
PIN- 783301

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
DIST- DHUBRI

ASSAM
PIN- 783301

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
SOUTH SALMARA
DIST- DHUBRI
ASSAM
PIN- 783127

7:ABDUL MOTIN
S/O- LATE ABDUL WAHED
VILLAGE- MATHAKATA
P.O.- JAMADARHAT
P.S. FAKIRGANJ
DIST- DHUBRI
ASSAM
PIN- 783330

8:ABDUL MOZID
S/O- ABUL HUSSAIN
VILL- BANACHAPA
P.O.- JAMADARHAT
P.S. FAKIRGANJ
DIST- DHUBRI
ASSAM
PIN- 78333

Advocate for the Petitioner : MR. M ALI, H R KHAN,MR J. ISLAM

Advocate for the Respondent : SC, ELEM. EDU, GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 18.11.2024

Heard Mr. M. Ali, learned counsel for the petitioner and Mr. N.J. Khataniar, learned Standing counsel for the respondent Nos. 1, 2 and 3, being the authorities in the Elementary Education Department.

2. The grievance of the petitioner, being sought to be addressed in this writ petition, is that the petitioner has been working as second Assistant Teacher of

Social Science subject in the Mathakata Banachapa M.E. Madrassa. The Headmaster of the said Madrassa submitted an application on 03.06.2017 for provincialisation of services of teachers of the said Madrassa before the District Scrutiny Committee, Dhubri. The District Scrutiny Committee, Dhubri then recommended the name of the teachers of the Mathakata Banachapa M.E. Madrassa to the State Level Scrutiny Committee. The State Level Scrutiny Committee then took a final decision on the basis of recommendation of the District Scrutiny Committee and recommended the name of three Language teachers for provincialisation of their services, namely, Abdul Motin, Romjan Ali Sheikh and Abdul Mozid and thereby, deprived the petitioner from the benefit of provincialisation of his service though he is an eligible Assistant Teacher of the Madrassa. The services of Abdul Motin (respondent No. 7) and Abdul Mozid (respondent No. 8) were provincialised on 05.02.2021, but, the petitioner was denied the benefit of provincialisation. The services of the respondent No. 7, who teaches English and respondent No. 8, who teaches Hindi, have been provincialised and as such, services of three Language teachers have been provincialised in contravention of Section 3(1)(xi) of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 ('Act of 2017', for short).

3. Mr. Ali, learned counsel for the petitioner submits that earlier the petitioner approached this Court by filing a writ petition, being WP(C) No. 4532/2021, challenging the order dated 05.02.2021, issued by the Director of Elementary Education, Assam and after hearing both the parties, this Court was pleased to dispose of the writ petition, vide order dated 02.12.2022, by directing the petitioner to prefer a statutory appeal before the Secretary, Department of School (Elementary) Education, Assam, under Section 14 of the Act of 2017, for

redressal of his grievances. Thereafter, the petitioner had preferred an appeal on 21.06.2023, under Section 14 of the Act of 2017 before the Secretary, Department of School (Elementary) Education, Assam and thereafter, the petitioner was asked to appear in the hearing on 22.03.2024, in the office chamber of the Secretary to the Government of Assam, Department of School Education, Block-C, Third Floor, Janata Bhaban, Dispur-06, vide letter dated 18.03.2024, issued by the District Elementary Education Officer, Dhubri. Accordingly, the petitioner had appeared in the hearing on 22.03.2024, with all relevant documents. But, his appeal has not yet been disposed of and being aggrieved, the petitioner has approached this Court again by filing the present writ petition. Mr. Ali further submits that this writ petition may be disposed of by directing the Secretary, Department of School (Elementary) Education, Assam to dispose of the appeal preferred by the petitioner, dated 21.06.2023, in a time bound manner.

4. Mr. Khataniar, learned Standing counsel for the respondents in the Elementary Education Department submits that since the petitioner has preferred an appeal and since he has also been heard on the said appeal, this writ petition may be disposed of by directing the Secretary, Department of School (Elementary) Education, Assam to dispose of the appeal preferred by the petitioner.

5. Having considered the submissions of the learned Advocates for both the parties, and in view of the pendency of the appeal preferred by the petitioner under Section 14 of the Act of 2017, this Court is inclined to dispose of this writ petition by directing the respondent No. 1, Secretary, Department of School (Elementary) Education, Assam, to dispose of the appeal of the petitioner dated 21.06.2023, by passing a reasoned order, within a period of one month from the

date of receipt of certified copy of this order.

6. The petitioner shall obtain a certified copy of this order and place the same before the respondent No. 1 within a period of one week from today.

7. In terms of above, the writ petition stands disposed of.

JUDGE

Comparing Assistant