



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

Case No. : WP(C)/8100/2022

CHAPARI GAON L P SCHOOL
REP. BY ITS HEADMASTER SRI RIPUN PEGU, S/O. LT. ELANG PEGU, VILL.
CHAPARI GAON, P.O. PISOLA SUBANSIRI MUKH, DIST. BISWANATH,
ASSAM, PIN-784169.

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTARY) DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DEPUTY INSPECTOR OF SCHOOLS

BISWANATH
GOHPUR
DIST. BISWANATH
ASSAM
PIN-784169.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER

BISWANATH
GOHPUR
DIST. BISWANATH
ASSAM
PIN-784169.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

CHAIDUAR
DIST. BISWANATH
ASSAM
PIN-784169.

6:THE CHAIRMAN OF THE DISTRICT LEVEL REDRESSAL COMMITTEE

SSA
SONITPUR CUM DEPUTY COMMISSIONER
BISWANATH
DIST. BISWANATH
ASSAM
PIN-784169.

7:THE MISSION DIRECTOR

SARBA SIKSHA BHIJAN
KAHILIPARA
GUWAHATI-19.

8:THE DISTRICT MISSION COORDINATOR SARBA SIKSHA ABHIJAN

SONITPUR
DIST. BISWANATH
ASSAM
PIN-784169

Advocate for the Petitioner : MR. I H SAIKIA

Advocate for the Respondent : SC, ELEM. EDU

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

Judgment & Order(Oral)

Date : 19.06.2024

Heard Mr. I. H. Saikia, learned counsel for the petitioner. Also heard

Ms. S. Chutia, learned Standing Counsel for the Elementary Education Department representing the respondents no. 1 to 5 and Mr. S. Bora, learned Standing Counsel for the SSA representing the respondents no. 6 to 8.

2. The challenge made in the present proceedings is to an order dated 17.10.2022, passed by the Director of Elementary Education, Assam, by which the claim of the teachers of the petitioner school i.e. Chapari Gaon L.P. School, were held to be not eligible for consideration, under the provisions of the Act of **"The Assam Venture Education Institutions (Provincialisation of Services) Act, 2011"** for provincialisation of their services on the ground that the said school was not captured under the DISE Data w.e.f. 2009-10 or prior thereto and the school was captured in the DISE Data w.e.f. 2014-2015 to 2020-2021.

3. The petitioner in the present proceedings has contended that the case of the serving teachers of the said school was considered for provincialisation of their services, under the provisions of the said Act of 2011. On such consideration being made and the serving teachers of the said school being found to be eligible for having their services provincialised, the respondent authorities, vide an order dated 14.05.2013, proceeded to provincialised the services of the serving teachers of the said school w.e.f. 01.01.2013. It is contended that in pursuance to the said order dated 14.05.2013, the teachers so found to be eligible have submitted their joining reports and were continuing in their services.

However, in spite of the services of the serving teachers of the said school being provincialised, they were not released with their monthly salaries and, on enquiry; they come to know that the same was on account of a doubt being raised with the DISE Code number issued to the petitioner school.

4. It is the contention of the petitioner that the School in question was established in the year 1984 and was functioning with all requisite permissions of the departmental authorities. Further, the petitioner school was issued a DISE Code being No. 0704304. Being aggrieved by the non release of the salaries of the serving teachers of the petitioner school, the petitioner had approached this Court, by way of instituting WP(C)/2485/2015, praying for release of the salaries due to the serving teachers in the petitioner school.

5. This Court, vide order dated 01.10.2015, proceeded to dispose of the said writ petition by directing the Director of Elementary Education, Assam to consider the case of the petitioner to release the arrear salaries of the serving teachers of the said school after receiving a report in the matter with regard to the DISE Code of the school in question from the Chairman, District Level Redressal Committee, SSA, Sonitpur-cum-Deputy Commissioner, Sonitpur. It is contended that in terms of the said directions passed by this Court, a communication dated 04.06.2016, was issued by the Sarva Siksha Abijan Mission authorities, wherein, the details of 12 schools having similar issues were submitted, including the name of the petitioner school. It is submitted that the teachers serving in the other

schools involved in the report of the SSA authorities have been released their salaries but, the similar benefits were not been extended to the serving teachers of the petitioner school.

6. Poised thus, the petitioner had again approached this Court by instituting WP(C)/3448/2019, praying for release of the arrear salaries as well as the current salaries with regard to the serving teachers of the petitioner school. This Court, vide an order dated 04.10.2021, directed the Mission Director, SSA, Assam to look into the matter and in the event, the report submitted by the Mission Director, SSA, Assam, is in favor of the petitioner school, the Director of Elementary Education, Assam was directed to take requisite steps for releasing the arrear salaries of the serving teachers of the petitioner school. It was also provided that if, the Mission Director, SSA, Assam upon verification of the records, finds that it is not an inadvertent mistake on the part of the authorities and the school concerned was infact not issued with the appropriate DISE Code, a reasoned order was required to be passed in the matter and communicate it to the petitioner.

7. It is in pursuance to the directions passed by this Court, vide the order dated 04.10.2021 in WP(C)/3448/2019, that the impugned order dated 17.10.2022 came to the so issued by the Director, Elementary Education, Assam.

8. A perusal of the order dated 17.10.2022, issued by the Director,

Elementary Education, Assam, would reveal that the Managing Director, SSA, Assam had submitted a report in the matter, wherein it was found that the petitioner school had a DISE Code w.e.f. 2014-15 till 2020-21. The petitioner school not having been found to have been captured in the DISE Data or issued with a DISE Code during the year 2009-10 or prior thereto, it was held that the petitioner school had not fulfilled the provisions as mandated in this connection, under the said Act of 2011, as amended, and accordingly, the claim of the petitioner school for releasing the arrear salaries with regard to the serving teachers therein was held to be not liable to be considered.

9. The SSA authorities in the proceedings of the present writ petition have filed an affidavit and therein, have reiterated the position as found recorded in the order dated 17.10.2022. It is the categorical contention of the SSA authorities in the affidavit so filed in the matter, that as per record, data of the petitioner school bearing DISE Code No. 0704304 was not found to be so captured for the year 2009-10 and it was found to only to be so captured w.e.f., 2014-15, 2016-17 in Sonitpur district; and, after bifurcation of the district, up to 2021-22 in Biswanath district.

10. The Director of Elementary Education, Assam had also in the affidavit so filed in the matter, contended that on account of the anomaly so surfacing with regard to the DISE Code as projected by the petitioner school and the same not having been captured in the DISE Data for the year 2009-10, the salaries of the serving teachers of the petitioner school

was directed not to be released.

11. It is further reiterated by the Director of Elementary Education, Assam that the petitioner school not being captured in the DISE Data during the year 2009-10 or prior thereto, the case of the petitioner cannot be considered for provincialisation of the services in respect of the serving teachers of the said school in terms of the provisions existing in the Act of 2011.

12. I have considered the submissions advanced by the learned counsels appearing for the parties and also perused the materials available on record.

13. The stand of the respondent authorities in the matter is that the petitioner school was not captured in the DISE Data during the year 2009-10 or prior thereto, which is the eligibility condition for consideration of the services of serving teachers in a school for provincialisation under the said Act of 2011, which mandates that for being denoted as a "Venture Primary School", the school must be so established by the people of the locality prior to 01.01.2006 and captured in the District Information System for Education (DISE) Data up to 2009-10 of the Ministry of Human Resource and Development, Government of India.

14. The materials as brought on record by the respondent authorities

having demonstrated that there being no record of the petitioner school being captured for the year 2009-10, this Court would not be in a position to conclude that the petitioner school had satisfied the eligibility condition for having the services of its teachers provincialised under the provisions of the said Act of 2011. It is also required to be noted that the Act of 2011 having prescribed a manner for determining the eligibility of the school for having the services of the serving teachers therein provincialised, the same ought to be done in that manner only and all other manners of determining such eligibility would stand excluded.

15. The petitioner has also not brought on record any cogent material to demonstrate that the school in question was so captured under the DISE Data for the year 2009-10 or prior thereto. In view of the said position emerging in the matter and the materials brought on record not demonstrating that the school in question was captured in the DISE Data for the year 2009-10 or prior thereto, the petitioner school is held to be not satisfying the requirements of the provisions of Section 2 (s) of the “**The Assam Venture Education Institutions (Provincialisation of Services) Act, 2011**” and accordingly, although the school was considered and provincialised under the said Act of 2011, the subsequent steps being taken by the respondents to undo such provincialisation as effected in respect of the serving teachers of the petitioner school, cannot in the facts and circumstances involved in the matter be interfered by this Court in any manner.

16. In view of the above conclusions, the writ petition is held to be devoid of any merit and accordingly, the same stands dismissed. However, there would be no order as to costs.

JUDGE

Comparing Assistant