

GAHC010275562023



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

Case No. : WP(C)/7162/2023

MD. MOTIOR RAHMAN AND ANR
S/O- LT. NAGOR ALI SARKAR,
VILLAGE- MUTHAKHOWA PT-II,
P.O.- MUTHAKHOWA,
P.S.- SOUTH SALMARA,
DISTRICT- DHUBRI, ASSAM,
PIN- 783323.

2: ABDUL BASER HAZARIKA
S/O- LT. BANIZ UDDIN

VILLAGE- MUTHAKHOWA PT-II

P.O.- MUTHAKHOWA

P.S.- SOUTH SALMARA

DIST.- DHUBRI
ASSAM

PIN- 783323

VERSUS

THE STATE OF ASSAM AND 7 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 MISSION DIRECTOR
SARBA SIKSHA ABHIJAN MISSION (SSA)
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE DEPUTY COMMISSIONER-CUM-CHAIRMAN OF DISTRICT
SCRUTINY COMMITTEE
DHUBRI
P.O. AND P.S.- DHUBRI

DISTRICT- DHUBRI
ASSAM

PIN- 783301.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
P.O.- DHUBRI

DIST.- DHUBRI
ASSAM

PIN- 783301.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
SOUTH SALMARA
P.O.- SOUTH SALMARA

DIST.- DHUBRI
ASSAM

PIN- 783127.

7:THE NATUN DAROGER ALGA L.P. SCHOOL
REPRESENTED BY ITS HEAD TEACHER NAMELY-
SRI ROHIZ UDDIN SK

VILLAGE- NILOKHIA PT-IV

P.O.- NILOKHIA

DIST.- SOUTH SALMARA MANKACHAR
ASSAM

PIN- 783128.

8:THE DUBARCHAR L.P. SCHOOL
REPRESENTED BY ITS HEAD TEACHER NAMELY-
SRI SAIFUL ISLAM

VILL-CHALAPARA PT-III

P.O.- NILOKHIA

DIST.- SOUTH SALMARA MANKACHAR

ASSAM
PIN- 783128

Advocate for the Petitioner : MR. M R KHANDAKAR, MR. A ROHMAN

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

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

18.09.2024

Heard Shri M.R. Khandakar, learned counsel for the petitioners. Also heard Shri B. Talukdar, learned Standing Counsel, Elementary Education Department.

Considering the subject matter involved and as agreed to by the learned counsel for the parties, this writ petition is taken up disposal at the admission stage.

As projected in the petition, the petitioners are working as Head Teacher and Assistant Teacher in the New Muthakhowa Islampur L.P. Schools in the district of Dhubri. The District Level Scrutiny Committee (DLSC) had scrutinized all the relevant school records including land documents and had recommended the name of the petitioners to the State Level Scrutiny Committee (SLSC) for provincialisation of their services as tutors of the said School under the Assam Education (Provincialisation of

Services of Teachers and Re-Organisation of Educational Institutions) Act, 2017. The petitioners had filed a writ petition earlier being WP(C)/6358/2022 in which, this Court had passed an order dated 04.11.2022 directing consideration of the representation of the petitioners and thereafter, place the case before the SLSC. However, vide the impugned order dated 18.07.2023, the representation of the petitioners have been rejected. The SLSC has held that there were no valid land documents. It is the contention of the petitioners that the draft chitha copy, land holding certificates and other relevant documents were very much present which were ignored.

Shri Khandakar, the learned counsel for the petitioners has however submitted that in terms of Section 14 of the Act of 2017, an appeal has been preferred before the Secretary to the Government of Assam, Department of School Education (Elementary) which is the appellate authority and the same is yet to be disposed of. He submits that since the appeal is filed and pending, a direction may be issued for disposal of the same in accordance with law.

Shri B. Talukdar, learned Standing Counsel does not raise serious objection to the aforesaid proposition of the learned counsel for the petitioner. He however submits that it should be clarified that the appeal is to be considered and disposed of strictly in accordance with law and not to be influenced by any observation made by this Court.

The rival contentions have been duly considered.

In view of the aforesaid submission, the instant writ petition is disposed of by directing the Appellate Authority, namely, the respondent no.1 to consider and dispose of the appeal dated 24.11.2023 preferred by the petitioners under Section 14 of the Act of 2017.

Since the appeal has been filed almost 10 months earlier, the same is directed to be considered and disposed of within a further period of 60 days from the date of the receipt of a certified copy of this order. It is needless to state that the appeal is to be considered and disposed of strictly in accordance with law.

The petitioners are also at liberty to approach the appropriate forum in case of any grievance arising out of such consideration.

JUDGE

Comparing Assistant