GAHC010063772020

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

Case No. : WP(C)/3962/2020

DINESH CHANDRA ROY AND 13 ORS.
S/O. PRANKANTA ROY, P.O. DIMAKURI, VILL. KEDARGAON, DIST. DHUBRI, ASSAM, PIN-783331.

2: NUR ISLAM SK
S/O. NABADDI SK
VILL. KISMAT HASDAHA PT.IV
DIST. DHUBRI
ASSAM
PIN-783334.

3: AFZALUR MANDAL
S/O. HATEM ALI MONDOL
VILL. CHARAIKHOLA
P.O. BISONDAIPS
GOLOKGANJ
DIST. DHUBRI
ASSAM.

4: MANZUR ALAM TALUKDAR
S/O. ABDUL HAMID TALUKDAR
P.O. AND P.S. GOLAKGANJ
DIST. DHUBRI
ASSAM
PIN-783334.

5: SABITA BALA ROY
C/O. SRI KHAGENDRA NATH ROY
VILL. DEBOTTAR HASDAHA PART III
P.O. KISMAT HASDAHA
DIST. DHUBRI
ASSAM
PIN-783334.

6: GOLZAR ALI
S/O. LT. NABAR ALI SK
VILL. DEBATTAR HASDAHA PT VI
P.O. DEBATTAR HASDAHA
DIST. DHUBRI
ASSAM
PIN-783334.

7: HAFIZUR RAHMAN
C/O. KASAM ALI
VILL. TIAMARI
DIST. DHUBRI
ASSAM
PIN-783331.

8: LUTFAR RAHMAN
S/O. KD. ASMOTULLAH MUNSHI
VILL. CHITALKATI
P.O. ALAMGANJ
GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331.

9: SAFIOR RAHMAN
S/O. OSMAN ALI
LAKHIMARI PT III
GOLOKGANJ
DIST. DHUBRI
ASSAM
PIN-783334.

10: HAFIZUR RAHMAN
C/O. SAHAD ALI SARKAR
VILL. BERBHANGI PT III
P.O. DIMAKARI
GOLAKGANJ
DIST. DHUBRI
ASSAM.

11: NAFISA SAROOWAT AKHTAR
C/O. MUFTI BAZLUR RAHMAN
VILL. SOUTH RAIPUR PT.I
GOLOKGANJ
DIST. DHUBRI
ASSAM
PIN-783334.

12: CHHALEMA KHATUN
W/O. BAHARUL ISLAM
VILL. BORBALACHAR
P.O. MARAGADADHAR
GOLOKGANJ
DIST. DHUBRI
ASSAM
PIN-783335.

13: ABU TALIP AHMED
S/O. AINUL HAQUE
VILL. UTTAR MARUGADADHAR
P.O. MARUGADADHAR
GOLOKGANJ
DIST. DHUBRI
ASSAM.

14: ABDUL ALIM SK

S/O. ABDUS SATTAR SK
III
WEST GAIKHOWA PT II
P.O. DIMAKURI
GOLOKGANJ
DIST. DHUBRI
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION DEPTT., DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND B SECRETARY
TO THE GOVT. OF ASSAM
EDUCATION DEPTT.
DISPUR
GUWAHATI-781006.

3:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER

DIST. DHUBRI-783301

ASSAM

Advocate for the Petitioner : MR. D BARUA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 04-12-2020

Heard Mr. D Barua, learned counsel for the petitioners. Also heard Mr. NJ Khataniar, learned counsel for the authorities in the Elementary Education Department, Government of Assam.

2. The petitioners herein are all working as Assistant Teachers in their respective schools, the details of which is provided in Annexure-A to the writ petition, which is extracted as below:

"*Names of teachers* *Names of School* *Date of joining*

1. Shri Dinesh Chandra Roy Binowabhabe Kedar LP School 16.02.1997

2. Nur Islam Sk. Pub Kismat Hasdaha Nadaru Sk LP School 30.08.2004

3. Afzalur Rahman Pestarchar (Charaikhola) LP School 03.02.2010

4. Manzur Alam Talukdar North Tokrerchara Hazipara LP School 29.01.2008

5. Smti. Sabita Bala Roy Bamunipar LP School 15.01.2007

6. Golzar Ali Hazi Aynuddin Sarkar Memorial LP School 09.10.2003

7. Hafizur Rahman Rabindra Narayan Adhikari Memorial LP School 28.12.2009

8. Md. Lutfar Rahman	*Rahmatia Lalpahar LP School*	*30.08.2004*
9. Safior Rahman	*Paschim Lakhimari LP School*	*11.04.1997*
10. Hafizur Rahman	*Lokpriya LP School*	*05.07.2008*
11. Nafisa Saroowat Akhtar	*South Raipur Pt.I LP School*	*06.02.2004*
12. Chhalema Khatun	*Lohajani Anusuchita Jatir LP School*	*02.02.2011*
13. Abu Talip Ahmed	*Dakhin Barobalarchar LP School*	*09.11.2010*
14. Abdul Alim Sk.	*Madhya Gaikhowa LP School*	*05.07.2008"*

3. The petitioners claim that under the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 (for short, the Act of 2017) a legal right has accrued to them for a consideration for their services being provincialised in their respective schools. The grievance raised in this writ petition is that inspite of such legal right having accrued to the petitioners, the respondent authorities are not doing the needful to process their claim for provincialisation of their services. The procedure for provincialisation of the services under the Act of 2017 is provided under Section 13 of the Act of 2017 where Section 13(6) provides that *the District Scrutiny Committee shall first scrutinize and prepare a list of all Venture Educational Institutions within the district, which are eligible in terms of the provisions of this Act and shall thereafter proceed to scrutinize and verify the service records of all the serving teachers, who are eligible or would become eligible for being considered for provincialisation of their services*..

4. A reading of Section 13(6) goes to show that once the schools concerned is included in the list of venture educational institutions which are to be considered, all the serving teachers of the schools who are eligible or would become eligible would be considered. In the instant case, it is stated that the schools concerned where the petitioners are serving are all enlisted to be venture educational institutions for whom provincialisation would be applicable. If it is so, we do not find any reason as to how the petitioners can be left out from the process. It is for the District Scrutiny Committee to examine whether the petitioners are eligible or they would be eligible in future, but such consideration would be mandatory on the part of the authorities. A reference is made to the Notification No.PMA.375/2017/45 dated 12.05.2017 of the Commissioner and Secretary to the Government of

Assam in the Elementary Education Department requiring the respective Headmasters of the schools concerned to forward the list and the particulars of the teachers who are required to be given a consideration by the District Scrutiny Committee.

5. In the aforesaid circumstance, we direct the respective Headmasters of the schools concerned where the present petitioners are working to forward the names and particulars of the petitioners to the concerned District Scrutiny Committee for giving a consideration as to whether they are eligible for provincialisation or not. Upon such list being forwarded, the Committee shall give its consideration in its next sitting.

6. The Headmasters of the schools, in question, are directed to submit the list and particulars of the petitioners within a period of 15 days from the date of receipt of a certified copy of this order. Although the respective Headmasters are not respondents in this writ petition, but this direction is specifically issued to the respective Headmasters to do the needful and the Deputy Inspector of Schools, Dhubri shall ensure that the respective Headmasters do comply with the requirement of this order.

7. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant