GAHC010166472020

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

Case No. : WP(C)/4968/2020

PUSPALATA PEGU
W/O- LT. SANJIB KUMAR DOLEY, R/O- VILL- PATRICHUK, MAJGAON, P.O. AND P.S. MAJ PATRICHUK, DIST.- LAKHIMPUR, ASSAM, PIN- 787055

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE SECY. TO THE GOVT. OF ASSAM, ELEMENTARY EDUCATION DEPTT., JANATA BHAWAN, DISPUR, GHY-06, ASSAM

2:THE DIRECTOR
ELEMENTARY EDUCATION DEPTT.
KAHILIPARA
GHY-19
ASSAM

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
LAKHIMPUR
P.O. LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM

4:BILASH DOLEY
HEADMASTER
MAJ PATRICHUK APPUN L.P.SCHOOL
LAKHIMPUR
VILL- PATRICHUK
MAJGAON
P.O. AND P.S. MAJPATRICHUK
PIN- 787055

5:TANUAM DOLEY

S/O- DANDIRAM DOLEY
ASSTT. TEACHER OF MAJ PATRICHUK APPUN L.P.SCHOOL
LAKHIMPUR
R/O- VILL- PATRICHUK
MAJGAON
P.O. AND P.S. MAJPATRICHUK
PIN- 78705

Advocate for the Petitioner : MR. B PHUKAN

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

14.12.2020

Heard Mr. B Phukan, learned counsel for the petitioner and Mr. B Kaushik, learned counsel for the Elementary Education Department of the Government of Assam. Considering the nature of the order proposed to be passed, no notice is required to be issued to the respondent Nos. 4 and 5 for the present.

2. The petitioner claims to be a regular teacher of Majpatrichuk Appun LP School and is aggrieved by the DISE Code issued by the respondent authorities on the ground that the respondent No.5 Sri Tanuam Doley is shown to be the second teacher of the school being appointed on 17.04.1987. According to the petitioner Sri Tanuam Doley is not regularly attending the school and therefore, he had lost his claim in the school to be the second teacher.

3. The dispute raised is a dispute of facts. But we have taken note of that the DISE Code has been issued and the matter will now be determined by the District Level Scrutiny Committee of Lakhimpur district as to which of the two teachers are required to be recommended for provincialisation. As a dispute has been raised by the petitioner that Sri Tanuam Doley had not been regularly attending the school, we direct the District Level Scrutiny Committee of Lakhimpur District to specifically look into the said aspect raised by the

petitioner and arrive at a factual finding as to whether Sri Tanuam Doley had been regularly attending the school or not. The aforesaid is required inasmuch as, if Sri Tanuam Doley had not been regularly attending the school, the petitioner having been appointed on 02.02.2003, have to be construed to be the second teacher and on the other hand if Sri Tanuam Doley had been regularly attending the school, he would have to be construed to be the second teacher as he was appointed on 17.04.1987 i.e. much prior to the petitioner.

4. For the requirement to be done by the District Level Scrutiny Committee, the petitioner shall serve a copy of this order before the DEEO, North Lakhimpur for doing the needful as indicated above. Further process for provincialisation for the second assistant teacher post in the Majpatrichuk Appun LP School, Lakhimpur be not further proceeded without deciding the aforesaid question as indicated above. For the purpose, the District Level Scrutiny Committee, Lakhimpur may rely upon and call for any material that may be required for the purpose.

The writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant