GAHC010173862020

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

Case No. : WP(C)/5214/2020

FARUK IMRAN KHAN
S/O. LT. AHAMMED ALI KHAN, WARD NO.1, HOWLY TOWN, P.O. HOWLY, DIST. BARPETA, ASSAM, PIN-781316.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT., DEPTT. OF EDUCATION, DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

KAHILIPARA
GUWAHATI-19.

3:THE STATE LEVEL COMMITTEE

HEAD BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-06.

4:THE DY. COMMISSIONER/CHAIRMAN

DISTRICT LEVEL COMMITTEE (DLC)
BARPETA
DIST. BARPETA
ASSAM
PIN-781301.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

BARPETA

P.O. BARPETA
DIST. BARPETA
ASSAM
PIN-781301.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER

MONDIA
P.O. MONDIA
DIST. BARPETA
PIN-781308

Advocate for the Petitioner : MR. H A AHMED

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

18.12.2020

Heard Mr. HA Ahmed, learned counsel for the petitioner, Mr. B Deori, learned counsel for the respondent Nos. 3 and 4 and Mr. PN Sarma, learned counsel for the Elementary Education Department of the Government of Assam.

2. The father of the petitioner namely Ahmed Ali Khan who was serving as a Headmaster of Pachim Balikuri Janakalyan ME Madrassa, died in harness on 02.10.2013 and on his death, the petitioner submitted an application for compassionate appointment on 12.12.2013. The application of the petitioner was placed before the DLC of Barpeta district in its meeting of 30.01.2017. From the resolution of the DLC, it is apparent that a conclusion was arrived at that five number of vacancies for compassionate appointment were available in respect of LP School Assistant Teachers. The DLC accordingly upon examining the claim of the petitioner including his educational qualifications had recommended the petitioner against one of the vacant post of Assistant Teacher in the LP School. When the recommendation of the DLC was placed before the SLC in its meeting on 20.07.2017, the claim of the petitioner stood rejected by stating the reason '*lack of vacancy*'.

3. If the DLC had evaluated the vacancy and found that five numbers of vacancies for Assistant Teacher were available for the purpose of compassionate appointment, we are unable to understand as to how SLC can pass an order without any reason to arrive at a conclusion to reject on the ground of there

being no vacancy. Accordingly, the rejection of the SLC on the claim of the petitioner in its meeting of 20.07.2017 stands set aside.

4. The matter shall now be again placed before the SLC in its next meeting to pass a reasoned order as to why an identified vacancy to which the petitioner was recommended was found to be fit for rejection on the ground of lack of vacancy.

The writ petition stands allowed as indicated above.

JUDGE

Comparing Assistant