GAHC010186142020

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

Case No. : WP(C)/5612/2020

SAMIM ROMJINUL HOQUE CHOUDHURY
S/O ABDUL MALEK SK
VILLAGE NAYERALGA PART III
PO NAYERALGA,
PS BILASIPARA, DIST DHUBRI, ASSAM 783348

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT.OF ASSAM,
DISPUR GUWAHATI 06

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
EDUCATION (SECONDARY) DEPARTMENT
DISPUR
GUWAHATI 06

3:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI 19

4:THE CHAIRMAN

STATE LEVEL SCRUTINY COMMITTEE
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
EDUCATION (SECONDARY) DEPARTMENT
DISPUR GUWAHATI 06

5:THE MEMBER SECRETARY
STATE LEVEL SCRUTINY COMMITTEE
ASSAM
DISPUR GUWAHATI 06

6:THE CHAIRMAN.
DISTRICT LEVEL SCRUTINY COMMITTEE REPRESENTED BY THE
DEPUTY COMMISSIONER
DHUBRI
ASSAM 783301

7:THE MEMBER SECRETARY

DISTRICT LEVEL SCRUTINY COMMITTEE
REPRESENTED BY THE INSPECTOR OF SCHOOLS
DDC
DHUBRI
783301

8:THE PRINCIPAL

NAYERALGA HS SCHOOL

PO NAYERALGA
PS BILASIPARA
DIST DHUBRI
ASSAM
78334

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 21-12-2020

Heard Mr. S.N. Sarma, learned senior counsel for the petitioner. Also heard Mr. R. Mazumder, learned counsel for the Secondary Education Department.

2. Considering the nature of the order proposed to be passed, we deem it appropriate that no notice is required to be issue to the respondent No.8 for the present.

3. The petitioner who was appointed as a teacher in the subject history in Nayeralga H.S. School is aggrieved to the extent that although the district level scrutiny committee had made a recommendation in his favour for provincialisation of his services under the Assam Education (Provincialisation of Services of Teachers & Re-organization of Educational Institution) Act, 2017 (in short Act of 2017) but while the said recommendation was forwarded to the Director of Secondary Education, it was not acted upon on the ground that earlier in the year 2013, the claim of the petitioner for provincialisation under the Assam Venture Education Institutions (Provincialisatlion of Services) Act, 2011 (in short Act of 2011) was refused.

4. Being aggrieved, the petitioner has filed an appeal under Section 14 of the Act of 2017 before the Commissioner & Secretary to the Govt. of Assam in the Secondary Education Department which is dated 11.12.2020.

5. The apprehension of the petitioner is that as the process of provincialisaltion is in the final stage, his case would again left out if the appeal is not given a consideration within a specific time.

6. As regards the other aspect not to provincialise the service of the petitioner as the earlier it was not done so under the Act of 2011, we require the Commissioner & Secretary to the Govt. of Assam to specifically look into the question as to whether the earlier refusal or non provincialisation can be a ground not to provincialise under the Act of 2017.

7. A plain reading of the Act of 2017 does not indicate any such provision which debars a person who was earlier not provincialised under the Act of 2011.

8. In any view of the matter, the Commissioner & Secretary to give a final consideration to the appeal dated 11.12.2020 within a period of 15 days from the date of receipt of the certified copy of the order and in the event, the appellate order goes in favour of the petitioner, the petitioner be not deprived of any benefit of provincialisation merely because the process may have been complete in the meantime.

9. Writ petition stands disposed of.

JUDGE

Comparing Assistant