

GAHC010048672024



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

Case No. : WP(C)/1558/2024

HABIBUR RAHMAN
S/O- AMIR UDDIN,
A RESIDENT OF VILL- CHENIBARI,
P.O.- BHERBHERI BILL,
DIST.- DARRANG (ASSAM).

VERSUS

THE STATE OF ASSAM AND 8 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
ELEMENTARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE MISSION DIRECTOR
SAMAGRA SIKHA ABHIJAN MISSION
GUWAHATI-19.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DARRANG
MANGALDOI
ASSAM
PIN- 784125.

5:THE DISTRICT MISSION COORDINATOR
SAMAGRA SIKSHA ABHIJAN MISSION
DARRANG
MANGALDOI

ASSAM
PIN- 782105.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
DALGAON SIALMARI EDUCATION BLOCK
P.O.- DALGAON
DIST.- DARRANG

ASSAM
PIN- 784126.

7:THE BLOCK MISSION CO-ORDINATOR
SARBASIKSHA ABHIJAN MISSION
DALGAON-SIALMARI BLOCK
P.O- DALGAON
DIST- DARRANG

ASSAM
PIN- 784126.

8:THE STATE SCRUTINY COMMITTEE
ASSAM
TO BE REPRESENTED BY ITS CHAIRMAN-CUM-DIRECTOR

ELEMENTARY EDUCATION
ASSAM

KAHILIPARA
GUWAHATI-19.

9:THE DISTRICT SCRUTINY COMMITTEE FOR ELEMENTARY EDUCATION
DARRANG
TO BE REPRESENTED BY ITS CHAIRMAN-CUM-DEPUTY COMMISSIONER
DARRANG

DIST.- DARRANG
ASSAM

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

JUDGMENT & ORDER (Oral)

Date : 18.03.2024

Heard Mr. M. A. I. Hussain, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned Standing Counsel for the Elementary Education Department.

2. The petitioner, by instituting the present proceeding has assailed the inaction on the part of the respondent authorities in not considering his case for provincialisation of his services under the provisions of *The Assam Education (Provincialisation of services of Teachers and Re-organisation of Educational Institutions) Act, 2017*.

3. The petitioner was initially appointed as the Headmaster of Chenibari Bherbhari Anchalik Girls M. E. Madrassa on 31.12.1997 by the School Managing Committee of the said school. The said school at that relevant point of time was in its venture stage. The petitioner projects that in addition to the duties attached to the post of Headmaster of the said school, he was also required to take the classes of the subjects of English and Social/Studies in the school. On the said school being found eligible for provincialisation, the petitioner as a Headmaster submitted the particulars of the serving teachers of the said school in the prescribed format to the respondent authorities on 05.06.2017. It is the contention of

the petitioner that the District Level Scrutiny Committee (DLSC) had recommended the name of the petitioner and one Mazibor Rahman for provincialisation of their services. However, on account of a wrong quoting of the DISE code of the school in the recommendations of the DLSC, the case of the petitioner and the other recommended teacher was not processed further. The representations submitted by the petitioner for processing of his case for provincialisation of his services having not received any response, the petitioner has approached this Court by way of instituting WP(C) No. 2462/2021. This Court, vide order dated 05.04.2021, gave a final consideration to the said writ petition and directed the Director of Elementary Education, Assam to find out from the record, the correct DISE code issued to the school in question and if the DISE code so issued have a valid code under law, further process the case of the petitioner for provincialisation of his services by correcting the DISE code as now recorded against the said school.

It is the projection made in the writ petition that after passing of the said order dated 05.04.2021, the respondent authorities processed the matter further and the Block Elementary Education Officer vide his communication dated 03.01.2022, placed before the District Elementary Education Officer, the correct DISE code of the school and therein requested for taking steps for provincialisation of school under the provisions of the said Act of 2017. The report as submitted by the Block Elementary Education Officer was forwarded by the District Elementary Education Officer vide his communication 20.01.2022 to the Director of Elementary Education, Assam. Thereafter the Director of Elementary Education, Assam vide a communication dated 28.07.2022 requested the

Mission Director, SSA, Assam to furnish a DISE verification report with regard to the school of the petitioner. It is seen that vide an order dated 13.12.2023, the name of the school i.e., Chenibari Bherbheri Anchalik Girl's Madrassa was changed to Chenibari Bherbheri Anchalik Girl's M.E. School. However, the further processing as required in the matter for consideration of the case of the petitioner for provincialisation of his services was not taken. Being aggrieved, the present proceeding has been instituted by the petitioner, praying for a direction upon the respondent authorities to consider the cases of the petitioner and other serving teachers of the said school for provincialisation of their services.

4. It is seen that the school of the petitioner was found eligible for provincialisation and accordingly, the cases of the serving teachers therein is taken up for consideration by the District Level Scrutiny Committee and the name of the petitioner and one Mazibor Rahman came to be recommended for provincialisation of their services. However, on account of the anomaly existing with regard to the DISE code as recorded in the name of the school in the proposal submitted, the further processing of the case of the petitioner and other serving teachers of the said school for provincialisation of their services was not taken forward.

5. This Court, vide order dated 05.04.2021, passed in WP(C)/2462/2021 had required the Director of Elementary Education, Assam to find out the correct DISE code in respect of the school of the petitioner and in the event, the said code is found to be valid under the

law, to further process the cases of the petitioner and the serving teachers of the said school for provincialisation of their services.

6. It is seen from the reports submitted by the District Level Scrutiny Committee that the school was assigned a DISE code number 18080307312 since 2006-07, however, in the format of the report of the District Level Scrutiny Committee, the said DISE code number came to be recorded as 18080305105. It is because of the said anomaly, the cases of the petitioner and the serving teachers of the said school were not processed further for provincialisation of their services.

7. In view of the above position, the Director of Elementary Education, Assam is required to place the cases of the eligible serving teachers of the School before the District Level Scrutiny Committee to re-verify the particulars of the petitioner and the serving teachers of the said school basing on the correct DISE code now disclosed in the reports of the District authorities and thereafter, basing on the recommendations as made in the matter by the District Level Scrutiny Committee to further process the case of the petitioner and the serving teachers of the said school, strictly, according to the provisions of the said Act of 2017 and place the same before the State Level Scrutiny Committee (SLSC). The recommendations as may be made by the SLSC be implemented by provincialising the services of the teachers of the School in question, so recommended. The Director of Elementary Education, Assam shall also issue a Speaking order to the teachers whose cases were not

recommended for provincialisation either by the DLSC or SLSC, informing them of the reason/reasons existing for non-provincialising their services.

8. The above exercise shall be initiated and completed by the Director of Elementary Education, Assam within a period of 3(three) months from the date of receipt of a certified copy of this order.

9. The petitioner is directed to furnish to the Director of Elementary Education, Assam a certified copy of this order along with a representation for taking the matter forward.

10. With the above directions and observations, the writ petition is disposed of.

JUDGE

Comparing Assistant