

GAHC010058002022



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

**Case No. : WP(C)/2212/2022**

SANTOSH RANJAN DEB AND ANR  
S/O LATE SUDHIR RANJAN DEB, H.T., CHALKHAURI TRIBAL L.P. SCHOOL,  
HAILAKANDI, VILL-KUKICHERRA GRANT, P.O.-KUKICHERRA, P.S.-  
KATLICHERRA, DIST-HAILAKANDI, ASSAM

2: ABDUL SATTAR BARBHUIYA  
S/O LATE MONIR ALI BARBHUIYA  
A.T.  
CHALKHAURI TRIBAL L.P. SCHOOL  
HAILAKANDI  
VILL-JAMIRA BAZAR BASTI  
P.O.-JAMIRA BAZAR  
P.S.-RAMNATHPUR  
DIST-HAILAKANDI  
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR,  
GUWAHATI-6

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

3:THE STATE LEVEL SCRUTINY COMMITTEE  
REPRESENTED BY THE DIRECTOR OF ELEMENTARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-19

4:THE DISTRICT SCRUTINY COMMITTEE  
REPRESENTED BY THE DEPUTY COMMISSIONER  
HAILAKANDI  
P.O.  
P.S. AND DIST- HAILAKANDI  
ASSAM  
PIN-788152

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
HAILAKANDI  
P.O.  
P.S. AND DIST- HAILAKANDI  
ASSAM  
PIN-78815

**Advocate for the Petitioner** : MR. A M BARBHUIYA

**Advocate for the Respondent** : SC, ELEM. EDU

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

**Judgment & Order (Oral)**

**Date : 05.04.2024**

Heard Mr. A. M. Barbhuiya, learned counsel for the petitioners. Also heard Mr. B. Kaushik, learned Standing Counsel for the Elementary Education Department representing the respondents no. 1, 2, 3 & 5 and Mr. B. Deori, learned Government Advocate representing the respondent no. 4.

**2.** The petitioners by way of instituting the present proceeding, have prayed for a direction upon the respondent authorities to consider the cases for provincialisation of their services as Teacher/Tutor in accordance

with the provisions of the *Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017*.

**3.** The petitioner no. 1 was appointed as the Headmaster of Chalkhauri Tribal L.P. School and the petitioner no. 2 was so appointed as the Assistant Teacher in the said school. It is the projected case of the petitioners in the writ petition that the school of the petitioners being found eligible for having the services of the teachers serving therein to be considered for provincialisation of their services, the particulars of the petitioners came to be placed before the District Level Scrutiny Committee (DLSC) for verification of their service particulars.

**4.** The petitioners project that the DLSC, Hailakandi, in its meeting held on 31.12.2018 considered the cases of the petitioners and thereafter finding the petitioners to be eligible for provincialisation of their services, the names of the petitioners came to be forwarded to the State Level Scrutiny Committee (SLSC) for further verification. It is the case of the petitioners that after the DLSC had recommended their names; the departmental authorities had carried out physical verification of the records as maintained in the school of the petitioners and reports in this connection also came to be forwarded to the concerned authorities.

**5.** It is the grievance of the petitioners that inspite of the said steps taken in the matter, the respondent authorities have not taken the process of provincialisation of their services to its logical conclusion and the

petitioners have been deprived of the service benefits that would be enjoyed by them in the event their services were provincialized.

The provisions of the said Act of 2017, mandates that the cases of the serving teachers of the schools found eligible under the provisions of the Act of 2017 for provincialisation, are to be placed before the jurisdictional DLSC for verification of their particulars and thereafter before the SLSC for further verification.

**6.** In the case of the petitioners, it is contended that their cases, on verification were recommended by the DLSC however, thereafter the further scrutiny that is mandated by the Act has not been carried out by the SLSC. In the event, the petitioners were found to be eligible to have their cases considered for provincialisation of their services the procedure as mandated in the said Act of 2017 is required to be followed and the cases of the petitioners are required to be given its due consideration for provincialisation of their services as per the procedure mandated under the Act of 2017.

**7.** In absence of an affidavit being filed in the matter by the respondent authorities, it is not discernible as to the reasons why the cases of the petitioners for provincialisation of their services were not taken to its logical conclusion.

**8.** In view of the above position, the petitioners are hereby required to submit individual representations before the Secretary to the Government of Assam, Department of School Education along with a certified copy of this order staking their claim for provincialisation of their services by highlighting the steps that has been taken in this connection by the respondent authorities.

**9.** The Secretary to the Government of Assam, Department of School Education, on receipt of such representations from the petitioners shall consider the same along with the contemporaneous records and on such consideration it is found that the case of the petitioners was not considered by the SLSC, require the placing of the case of the petitioners before the SLSC for scrutiny of their service particulars. Thereafter, basing on the recommendation of the SLSC proceed to dispose of the representation as submitted by the petitioner.

**10.** In the event, it is found that the petitioners are not entitled to the benefits of the provincialisation of their services, the Secretary to the Government of Assam, Department of School Education, shall in his speaking orders disclose such reasons and communicate the same to the petitioners.

**11.** The above exercise as now required to be carried out by the Secretary to the Government of Assam, Department of School Education be so initiated and completed within a period of 3(three) months from the

date of receipt of a certified copy of this order.

**12.** With the above observations and directions, the writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**