

GAHC010065282022



2024:GAU-AS:13118

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

Case No. : WP(C)/2499/2022

MOKBUL HUSSAIN
S/O- LT. SORAF UDDIN, VILL. BARJANA PART-I, P.O. BARJANA, P.S.
JOGIGHOPA, DIST.- BONGAIGAON, PIN- 783382, ASSAM.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GHY.- 781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY.- 781019.

3:THE DIST. ELEMENTARY EDUCATION OFFICER (DEEO)
BONGAIGAON DIST.
PIN- 783380.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
SRIJANGRAM
BONGAIGAON DIST.
PIN- 783384.

5:THE STATE LEVEL HIGH POWER COMMITTEE
REP. BY THE SENIOR MOST SECY. TO THE GOVT. OF ASSAM
EDUCATION DEPTT.
GHY.
PIN- 781006.

6:THE DIST. SCRUNITY COMMITTEE
REP. BY ITS CHAIRMAN CUM DY. COMMISSIONER

BONGAIGAON DIST.
PIN- 783380
ASSAM.

7:FOZAR ALI AHMED
SCIENCE TEACHER
BARJANA NAIMUDDIN SARDAR MEMORIAL GIRLS M E MADRASSA
BONGAIGAON
PRESENTLY SERVING AS TUTOR AT PUB-BARJANA L P SCHOOL
C/O- THE HEADMASTER OF PUB-BARJANA L P SCHOOL
VILL. BARJANA PART-I
P.O. BARJANA
P.S.- JOGIGHOPA
DIST.- BONGAIGAON
PIN- 783382
ASSAM.

8:ABDUL KADER
ARABIC TEACHER
BARJANA NAIMUDDIN SARDAR GIRLS M E MADRASSA
BONGAIGAON
PRESENTLY SERVING AS TUTOR AT PUB-BARJANA L P SCHOOL
C/O THE HEADMASTER OF PUB-BARJANA L P SCHOOL
VILL. BARJANA PART-I
P.O. BARJANA
P.S. JOGIGHOPA
DIST.- BONGAIGAON
PIN- 783382
ASSAM

Advocate for the Petitioner : MR. A DEKA,

Advocate for the Respondent : SC, ELEM. EDU, MR. H ALI (R-8),MR F U BARBHUIYA (R-8),MR F U BARBHUIYA (r-7),MS S DAS (r-7),MR H R A CHOUDHURY (r-7),GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

10-09-2024

Heard Mr. A. Deka, learned counsel for the petitioner and Mr. P. K. Bora, learned Standing Counsel, Elementary Education Department for the respondent Nos.1, 2, 3, 4 and 5. Also heard Mr. B. Deuri, learned Government Advocate, Assam for the respondent No.6; Ms. B. Barman, learned counsel for the respondent No.7 as well as Mr. F. U. Barbhuiya, learned counsel for the respondent No.8.

2) The petitioner is aggrieved as the respondent authorities in the Elementary Education Department and the Director of Elementary Education (DEE), Assam by order dated 05.02.2021 provincialised the services of the respondent Nos. 7 and 8 as tutors under the provisions of *the Assam Education (Provincialisation of Services of Teachers and Re-Organisation of Educational Institutions) Act, 2017*, disregarding the better claim of the petitioner for provincialisation of his service.

3) It is stated by the petitioner that the respondent No.7, a Science Graduate was serving as a Teacher in Barjana Naimuddin Sardar Memorial Girls' ME Madrassa in the Srijangram Education Block of Bongaigaon District since its venture stage and was teaching the students of the said Girls ME Madrassa as a Mathematics and Science Teacher.

4) The respondent No.7 was appointed by the School Managing Committee (in short, SMC) of the said Venture School by its resolution dated 03.01.1997. Pursuant to the resolution dated 10.01.1987 of the SMC of the said Girls ME Madrassa, one Abdus Salam was appointed in the said Girls ME Madrassa and joined his service as a teacher of the said Madrassa on 11.01.1987 and was teaching the subjects of Assamese and Social Science to the students of the said Girls ME Madrassa. The respondent No.8, Higher Secondary passed with Arabic was appointed by the Managing Committee of the said Girls ME Madrassa by its

resolution dated 24.12.1987 and he joined his service in the said Girls ME Madrassa on 27.01.1987 and was teaching Arabic and Diniyat and Art to the students of the said Girls ME Madrassa. Another Teacher namely, Taherul Islam, Higher Secondary passed in Science, was appointed by the SMC of the said Girls ME Madrassa by its resolution dated 15.07.2006 and joined in the said Girls ME Madrassa on 17.07.2006 and was teaching Science in addition to the respondent No.7 in the said Madrassa. Another teacher by name Rashida Hassan, an Arts Graduate with Hindi was also appointed by the SMC of said Girls ME Madrassa by resolution dated 15.07.2006 and she joined her service in the said Madrassa on 17.07.2006 and was teaching Hindi and Arts Education to the students of the said Girls M E Madrassa.

5) The petitioner, pre-University passed, was also appointed by the SMC of said Girls ME Madrassa by resolution dated 10.01.1987 and he joined his service in the said Girls ME Madrassa on 13.01.1987 since its venture state and was teaching the Language subjects of English and Assamese to its students.

6) As the respondents in the Elementary Education Department including the District Scrutiny Committee (in short, DSC), Bongaigaon contemplated to provincialise the service of the respondent Nos. 7 and 8 as Tutors under the said 2017 Act without considering the case of the petitioner, he earlier filed a writ petition, being WP(C) No. 3031/2020, wherein, the present respondent No. 7 was arrayed as respondent No.9.

7) In said WP(C) No. 3031/2020 filed on 30.07.2020, the petitioner amongst others, prayed to set aside the said illegal recommendation of the DSC, Bongaigaon taken in the month January, 2020 to the State Level Scrutiny Committee (in short SLSC) for provincialisation of the services of the Teachers of said Barjana Naimuddin Sardar Memorial Girls' M. E. Madrassa on the basis of staff pattern of said ME Madrassa purportedly submitted by the respondent No.7, the Headmaster of the said ME Madrassa, deleting the name of the petitioner from the post of 2nd Assistant Teacher with an intention to deprive him from getting the benefit of provincialisation and to direct the respondent SLSC, represented by the DEE, Assam as well as the District Elementary Education Officer (DEEO), Bongaigaon, respondent Nos. 2 and 3 respectively, to dispose of his representation dated 24.02.2020. It was also submitted that the respondent No.7, the Headmaster of the said ME Madrassa illegally acted in not recommending the petitioner and stated that the DEEO, Bongaigaon by

its letter dated 04.03.2020 (annexed to the said WP(C) No. 3031/2020 as Annexure-7) proposed the name of the petitioner for inclusion as eligible 2nd Assistant Teacher of said Barjana Naimuddin Sardar Memorial Girls' M. E. Madrassa for provincialisation of services etc.

8) In said WP(C) No. 3031/2020, the petitioner annexed the letter of the Headmaster of Barjana Naimuddin Sardar Memorial Girls' M. E. Madrassa dated 24.02.2020 as Annexure-6 that was submitted before the DEE, Assam through the DEEO, Bongaigaon indicating that said Barjana Naimuddin Sardar Memorial Girls' M. E. Madrassa was established on 01.01.1993 with due permission and approval of the authority concerned and it was recognized on 01.01.2005 and that with regard to the provincialisation of the services of teaching and non-teaching staff of the said Girls ME Madrassa the DEEO, Bongaigaon on 17.03.2008 made communication on the basis of which the proposal was submitted, but, during such recommendation, the name of the petitioner as Language Teacher was inadvertently dropped and therefore, by the said letter dated 24.02.2020, the Headmaster of said Girls ME Madrassa requested the DEE, Assam through the DEEO, Bongaigaon to consider the case of the petitioner as Language Teacher and include his name for provincialisation of services as per law.

9) Said letter of the Headmaster of said Girls ME Madrassa dated 24.02.2020, signed on 27.02.2020 was also duly countersigned by the President of the SMC of said Girls ME Madrassa. Along with the said letter dated 24.02.2020, the Headmaster of the said Girls ME Madrassa placed the staff pattern of the said Girls ME Madrassa showing the petitioner as a Language Teacher of English and Assamese in the said Madrassa.

10) The petitioner in his said WP(C) No. 3031/2020 also annexed a communication of the DEEO, Bongaigaon dated 04.03.2020, Annexure-7, whereby the said DEEO, Bongaigaon proposed before the DEE, Assam to include the name of the petitioner as an eligible staff of said Girls ME Madrassa for provincialisation of service as an eligible tutor referring the application of the Headmaster of said Madrassa dated 24.02.2020 wherein it was indicated that the present respondent No. 7, the Headmaster of the said Madrassa was teaching Mathematics and Science, one Abdus Salam, Assistant Teacher was teaching Social Science and Assamese and the petitioner used to teach English and Assamese subjects to the students of the said Madrassa.

11) In said WP(C) No. 3031/2020 while issuing notice on 17.08.2020, the Court passed an interim order directing that till the next date fixed, the respondents shall not take any steps for provincialisation of service of the respondent No. 7 therein, if not already done. The said interim order dated 17.08.2020 was extended by order dated 25.08.2020.

12) The present respondent No.7, who was the respondent No.9 in said WP(C) No. 3031/2020 being the Headmaster of the said venture Girls ME Madrassa filed an affidavit in the matter on 13.10.2020.

13) The respondent No.9 therein i.e., the present respondent No. 7 also filed an interlocutory application in said WP(C) No. 3031/2020 being I.A. (C) No. 1766/2020 on 13.10.2020 praying amongst others, for vacation/modification/alteration of the said interim orders dated 17.08.2020 and 25.08.2020.

14) From the records of the WP(C) No. 3031/2020 as well as the I. A. (C) No. 1766/2020 filed in said WP(C) No. 3031/2020, it is seen that the copies of the affidavit filed by the respondent No.9 (present respondent No.7) as well as the application filed by the said respondent No. 9 was served on the Standing Counsel for the Elementary Education Department.

15) In the said I.A. (C) No. 1766/2020 filed on 05.03.2020, the applicant therein i.e., the present respondent No.7 annexed a School Verification Format along with the details of position of teaching staff of said Barjana Naimuddin Sardar Memorial Girls' ME Madrassa reflecting the enrollment of students in Class- VI, VII and VIII for the years 2017, 2018, 2019 and 2020, wherein, the present petitioner was shown to be the 2nd Assistant Teacher and the respondent No. 7 as the Headmaster of said Girls ME Madrassa which indicates that the petitioner is a Diploma holder in Elementary Education (D.El.Ed.) he used to teach English and Assamese whereas the respondent No. 7 used to teach Mathematics and Science.

16) After hearing the petitioner, the respondents in the Elementary Education Department as well as the respondent No. 9, i.e., the present respondent No. 7, the Court on 06.11.2020 passed the following order:-

“Date : 06.11.2020

Heard Mr. M.U. Mahmud, learned counsel for the petitioner as well as Mr. F.U.

Barbhuiya, learned counsel for the respondent no.9. Also heard Ms. M. Phukan, learned standing counsel for the Elementary Education Department.

In this writ petition, the grievance of the petitioner is that in the verification report submitted by the respondent no.7, i.e. the Headmaster cum Secretary of Barjana N. Sardar Memorial Girls' M.E. Madrassa, the respondent no.9 was shown as Assistant Teacher (Language). Accordingly, apprehending that the name of the petitioner is dropped in the list of details of teachers, the present writ petition has been filed.

The learned counsel for the petitioner submits that the petitioner is the second Assistant Teacher and is imparting teaching in the English and Assamese subject and that the respondent no.9 is a Science and Mathematics teacher, who is the third teacher of that school. He submits that the statements made in I.A.(Civil) 1766/2020 as well as Annexure-D thereof, the position has been clarified by the respondent no.7.

Accordingly, joint prayer has been made by the learned counsel for the petitioner as well as the learned counsel for respondent no.9 that as the names of both the petitioner and the respondent no.9 appears in the list of details of teachers submitted by the respondent no.7, i.e. the Headmaster cum Secretary of Barjana N. Sardar Memorial Girls' M.E. Madrassa, there is no dispute between the petitioner and the respondent no.9.

Having no grievance as regards Annexure-D of the I.A.(Civil) 1766/2020, which is the details of teachers position in Barjana N. Sardar Memorial Girls' M.E. Madrassa as submitted by the Headmaster (respondent no.7) dated 05.03.2020, there would be no bar to the authority to do the needful for provincialization of the said school and services thereunder.

As this is a consent order, passed in the basis of submissions made by the learned counsel for the petitioner and the learned counsel for the respondent no.9, the facts presented in the writ petition as well as in the connected I.A.(Civil) has not been gone into.

Needless to say that the interim order passed on 17.08.2020 and extended by order dated 25.08.2020 stands vacated.

Accordingly, this writ petition stands disposed of."

17) After the said order dated 06.11.2020 passed in WP(C) No. 3031/2020, the respondents in the Elementary Education Department by order dated 05.02.2021, provincialised the services of the respondent Nos. 7 as Language Teacher and 8 as Arabic Teacher and one Abdus Salam as Social Science Teacher and Taherul Islam as Mathematics and Science Teacher.

18) Inspite of the order of the Court dated 06.11.2020, as the respondent authorities in

the Elementary Education Department as well as the DSC, Bongaigaon did not consider the case of the petitioner for provincialisation of his service under the said 2017 Act, being aggrieved he has filed this writ petition on 30.03.2022, praying amongst others, for a direction to the respondents in the Elementary Education Department to reconsider and verify the grievances of the petitioner or to provincialise his service under the provisions of said 2017 Act in any Base School and to set aside the provincialisation order dated 05.02.2021, provincialising the respondent Nos. 7 and 8 as Tutors, with a further prayer for a direction to the SLSC, Assam to verify the claims of the petitioner as well as the respondent Nos.7 and 8 afresh under the 2017 Act and/or to pass such other order/orders as the Court deem fit and proper in the interest of justice.

19) Section 3 (1) (XI)of the said 2017 provides as follows:--

“In case of Venture Upper Primary School there shall be minimum three teachers or tutors at least one teacher each for (a) Science and Mathematics (b) Social Studies and (c) Languages:

Provided that for additional posts it shall be considered in accordance with the norms and standard stipulated in the Schedule under Section 19 and 25 of the Right of Children to Free and Compulsory Education Act, 2009 (Central Act No. 35 of 2009).”

20) Section 13 provides for District Scrutiny Committee in the District separately for Elementary, Secondary and Higher Education who is required to scrutinize the service records and other related issues of the teachers serving in Venture Educational Intuitions pertaining to provincialisation of their services. Section 13 (1), 13 (2), 13 (5) of said 2017 Act provides as follows:--

“(1) There shall be District Scrutiny Committees in each district separately for Elementary, Secondary and for Higher Education to scrutinize service records and other related issues of the serving teachers of Venture Educational Institutions pertaining to provincialisation of their services.

(2) The Deputy Commissioner of the District, by an order, shall constitute the District Scrutiny Committee for the respective district under preceding sub-section:

Provided that in case of newly created districts, the Deputy Commissioner of the erstwhile district with the help of Deputy commissioner of the newly created district shall scrutinize all cases of entire erstwhile district.”

“(5) The District Scrutiny Committee for Elementary Education shall be

constituted with the following members, namely:-

- (i) *The Deputy Commissioner or his nominee not below the rank of Additional Deputy Commissioner of the concerned district ---Chairman;*
- (ii) *The District Elementary Education Officer of the concerned district---Member-Secretary;*
- (iii) *One representative of the Deputy Commissioner of the newly created district if the institution falls within the jurisdiction of newly created district---Member;*
- (iv) *The Deputy Inspectors of Schools of all Sub-divisions within the concerned district---Members;*
- (v) *The Block Elementary Education Officer of all Blocks within the concerned district-- --Members;*
- (vi) *One eminent person in the field of education who is an ordinary resident within the district to be nominated by the Deputy Commissioner---Member."*

21) As per sub-Section 6 of Section 13 of said 2017 Act The District Scrutiny Committee –
shall at first scrutinize and prepare a list of all Venture Educational Institutions within the district, which are eligible in terms of the provisions of this Act and shall thereafter proceed to scrutinize and verify the service records of all the serving teachers, who are eligible or would become eligible for being considered for provincialisation of their services. The District Committee shall identify a Base School for each category of school and recommend the name of teacher/ tutor to be associated against each of such Base School.

22) Section 7, 8, 10, 11 and 12 of the said 2017 Act provides as follows:--

"(7) The District Scrutiny Committee shall forward the verified list of eligible teachers Base school-wise in accordance with this Act, to the concerned Director who shall place the matter before the State Level Scrutiny Committee to be constituted under sub-section (10) of this section and after making such further scrutiny as may be required, shall forward the same to the concerned Department of the State Government for consideration and for issuing Notification in respect of the eligible institutions and teachers eligible for getting their services provincialised.

(8) The District Scrutiny Committee shall have the powers to inspect physical existence of school and to inspect all documents and records produced before it and call for such further records and documents as may be required for the purpose of causing verification and scrutiny and examine witnesses for the purpose, if considered necessary and while doing so it shall have the powers of a Civil Court for the purpose of compelling attendance of persons and production of documents.

(10) There shall be one State Level Scrutiny Committee at State level for verification of recommendation received from the District Scrutiny Committees with the following member, namely :-

- (i) Director of the concerned Department of Education - Chairman.
- (ii) Joint Director/Deputy Director of the concerned Directorate-Member Secretary.
- (iii) One representative nominated by the concerned Administrative Department --Member.

(11) The State Level Scrutiny Committee shall have to cause physical verification of all institution and will also inspect all documents and records produced before it and call for such other records and documents as may be required for the purpose of causing verification.

(12) When there arises difference in between the recommendation of the District Scrutiny Committee and the Physical verification report caused by the State Level Scrutiny Committee, the matter shall be placed before the State Level Scrutiny Committee and the decision of the State Level Scrutiny Committee shall be final.

Explanation:- for the purposes of this section the Deputy Commissioner in relation to Districts included in the areas covered under the Sixth Schedule of the Constitution of India shall mean the Principal. Secretary of the respective council."

23) Inspite of issuance of notice on 18.04.2020, the respondents in the Elementary Education did not file any affidavit in this matter for last more than 4 years 4 months.

24) By order dated 04.01.2024, the Court directed the authorities in the Elementary Education Department invariably to place before the Court the instructions pertaining to the factors basing on which the services of the teachers of said Girls ME Madrassa was decided to be provincialised and the reasons why the petitioner was denied the benefit of provincialisation of his services.

25) Today, Mr. Bora, learned Standing Counsel, Elementary Education Department placed a copy of the para-wise comments relating to the present writ petition forwarded by the Director of Elementary Education, Assam by its communication dated 09.09.2024.

26) The stand of the DEE, Assam in this writ petition is that as per Section 3 (1) (xi) of said 2017 Act, minimum three teachers/tutors in Upper Primary School, each for (a) Language, (b) Science and Mathematics and (c) Social Science is required to be considered and as per the said 2017 Act, additional teachers should be considered in accordance with the norms and standards stipulated under Sections 19 and 25 of the Right of Children to Free and Compulsory Education Act, 2009.

27) As per the DEE, Assam, the DEEO, Bongaigaon submitted the proposal for provincialisation of services recommending the name of the respondent No. 7 as an English

Teacher of the said ME Madrassa, one Abdus Salam as Social Science Teacher, one Taherul Islam as Mathematics and Science Teacher and the respondent No.8, Abdul Kader as Arabic Teacher and that the name of the petitioner was enlisted as 'non recommended' in the proposal furnished by the DSC, Bongaigaon pertaining to said Girls ME Madrassa.

28) It is also stated by the DEE, Assam that after receipt of the said proposal from the DEEO, Bongaigaon it was placed before the SLSC as well as the Joint Committee constituted by the Government under the Chairmanship of Sri R. C. Jain, IAS (Retd.) Chairman of SEBA for examining the proposal for provincialisation of services issued vide Notification dated 18.03.2019.

29) The said constituted Committee in its minute dated 24.07.2020 decided to instruct the Managing Director of the SSA, Assam to verify the DISE related parameters of the proposed School- (i) Whether the name of the Schools appears in DISE Data maintained by NEUPA (New Delhi) 2009 or before, (ii) Whether the name of the incumbent appears in DISE Data maintained by NEUPA (New Delhi) of 2011 and afterwards and (iii) Enrollment position of the School during 2016-17 and 2017-18. Pursuant to the same, the SSA authorities of Assam submitted the DISE verification report of said Barjana Naimuddin Sardar Memorial Girls' ME Madrassa of the years 2016-17 and 2017-18 showing the numbers of enrollment in the year 2016-17 as 98 and in the year 2017-18 as 118.

30) As per the enrollment position of said ME Madrassa during the year 2016-17 the authorities concerned found that the said Madrassa is eligible for four teacher as per Section 3 (1) (xi) of said 2017 Act, one teacher each for Language, Science and Mathematics and Social Science.

31) After recommendation of both the Committees i.e., the DSC and the SLSC, the office of the DEE, Assam submitted the proposal to the Government for creation of posts of Teachers and accordingly, four numbers of post of Tutors against the said Barjana Naimuddin Sardar Memorial Girls' ME Madrassa was sanctioned and thereafter, the office of the DEE, Assam issued the provincialisation order dated 05.02.2021 provincialising the service of the respondent Nos. 7 and 8 as Tutors. It is stated that the case of the petitioner could not be considered as his name was not recommended by the SLSC as well as by the Committee

constituted by the Government on 18.03.2019 since his name was not recommended by the DSC, Bongaigaon.

32) The DEE, Assam categorically stated that the petitioner could not be recommended by both the State Level Selection Committee as well as the Committee constituted by the Government vide Notification dated 18.03.2019 since his name was not recommended by the DSC, Bongaigaon.

33) It is submitted by the DEE, Assam that the SLSC recommended four numbers of teachers of said Girls ME Madrassa following the provisions of Section 3(1)(xi) of said 2017 Act, based on the recommendation of the DSC, Bongaigaon, but could not consider the application of the Headmaster of said Girls ME Madrassa that was submitted through the DEEO, Bongaigaon for inclusion of the service of the petitioner since the proposal was not submitted through the District Scrutiny Committee as per Section 13(6) of the said 2017 Act.

34) Along with the said communication dated 09.09.2024, the DEE, Assam forwarded the recommendation of the DSC, Bongaigaon, wherein, the name of the petitioner did not figure at Clause 6 – Details of Tutors Eligible for Provincialisation, whereas, his name figured in the said format at Clause 7 – Details of Teacher/Tutor, who are not eligible for provincialisation due to non-availability of required enrollment.

35) In the recommendation of the DSC, Bongaigaon the respondent No. 7 was shown to be the Headmaster and subject taught as English, whereas, the respondent No. 8 was shown to be an Assistant Teacher, teaching the subject of Arabic and Diniyat, leaving the petitioner who used to teach English and Assamese in the said Madrassa and one Rashida Hassan Hindi Teacher of the said School for provincialisation of their services.

36) Though the DEE, Assam stated that the SLSC and the Committee constituted by the Government considered the recommendation of the DSC, Bongaigaon for provincialisation of the services of teacher of the said Girls ME Madrassa, but the DEE, Assam being the Chairman of the SLSC inspite of the order of the Court dated 06.11.2020 passed in WP(C) No. 3031/2020 did not consider the dispute raised by the petitioner, wherein the Headmaster of the Madrassa, respondent No. 7 clearly indicated that he used to teach Mathematics and Science and the petitioner used to teach English and Assamese in said Girls ME Madrassa.

37) It is already noted above, that as per Section 13(6), the DSC is required to scrutinize and verify the service records of all the seven teachers, who are eligible or would become eligible for being considered for provincialisation of their services.

38) Though the authorities in the Elementary Education Department were aware about the order dated 06.11.2020, passed by the Court in WP(C) No. 3031/2020, the SLSC apparently did not inspect all the documents and records produced before it, nor called for such other records and documents that may be required for the purpose of causing verification as been specified in Sub-Section 11 of Section 13 of the said 2017 Act.

39) The SLSC headed by the DEE, Assam also did not comply with the provisions of sub-Section 12 of Section 13, wherein, it is provided that, when there arises a difference between the recommendation of the DSC and the SLSC, the matter requires to be placed before the SLSC, where the decision of the SLSC shall be final.

40) In its communication dated 09.09.2024, the DEE, Assam being the Chairman of the SLSC under the said 2017 Act did not state anything that the said authority took any steps or initiative for verification of new records relating to provincialisation of services of the respondent Nos. 7, 8 and other two teachers, though dispute was raised by the DEEO, Bongaigaon in its communication dated 24.02.2020 which was considered by the Court earlier in its order dated 06.11.2020 passed in WP(C) No. 3031/2020.

41) Since there is a judicial pronouncement of the Court dated 06.11.2020 passed in WP(C) No. 3031/2020, wherein the respondents in the Elementary Education Department are the party respondents, the Court is of the view that any such provincialisation done by the respondents authorities in the Elementary Education Department relating to the respondent Nos. 7 and 8 in said Girls ME Madrassa needs to be interfered with for non-compliance of the order dated 06.11.2020 passed in WP(C) No. 3031/2020 by the SLSC as required under Sub-Section 12 of Section 13 of said 2017 Act.

42) After hearing the learned counsels for the parties, the Secretary to the Government of Assam in the Elementary Education Department is directed to verify the entire records relating to said Barjana Naimuddin Sardar Memorial Girls' ME Madrassa afresh and to do the needful as per the provisions of said 2017 Act, relating to provincialisation of the concerned

teachers of the said Girls M E Madrassa as Tutors.

43) In that regard, after due verification of the documents and records of said Girls M E Madrassa with the fresh report of the District Elementary Education Officer, Bongaigaon as well as the communication of the DEEO dated 24.02.2020, the Secretary to the Government of Assam in the Elementary Education Department shall pass a Speaking Order within a period of 3 (three) months from the date of receipt of a certified copy of this order along with the representation to be submitted by the petitioner, informing the petitioner about the outcome of said verification as directed above.

44) The petitioner shall submit the certified copy of this order along with his representation before the District Elementary Education Officer, Bongaigaon obtaining necessary acknowledgement in that regard from the said authority.

45) The State Level Scrutiny Committee, headed by the DEE, Assam, respondent No.2, shall hear the petitioner, respondent Nos. 7 and 8 as well as other teachers already considered for provincialisation pursuant to the report of the DEE, Assam and teachers not been recommended by the DSC, Bongaigaon for provincialisation of their services as Teachers relating to said Barjana Naimuddin Sardar Memorial Girls' M E Madrassa and also the DEEO, Bongaigaon, who is the Member Secretary for the District Scrutiny Committee, as provided under Section 13(5) of the said 2017 Act.

46) Till issuance of such Speaking Order by the Secretary to the Government of Assam in the Elementary Education Department within the time as directed above, the respondent No. 7 shall be allowed to serve as Tutor in terms of his provincialisation order dated 05.02.2021.

47) If during such enquiry by the State Level Selection Committee within such specific time, the petitioner is found to be eligible for provincialisation of his service as Tutor in said Barjana Naimuddin Sardar Memorial Girls' M E Madrassa, the authorities concerned including the respondent Nos. 1 and 2 shall do the needful considering that the petitioner will retire from service soon on attaining the age of superannuation.

48) With the above observations and direction, this writ petition stands disposed of.

49) Copy of the communication dated 09.09.2024 of the DEE, Assam that was placed before the Court today by Mr. P. K. Bora, learned Standing Counsel, Elementary Education

Department be kept as part of the record.

JUDGE

Comparing Assistant