

GAHC010012022024



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

Case No. : WP(C)/399/2024

PRASENJIT ROY AND 5 ORS
ASSISTANT TEACHER (ARTS),
FUTKIBARI HIGH SCHOOL,
S/O- LATE PRABHAT CHANDRA ROY,
VILLAGE- GAURANTARI PART-II,
P.O.- FUTKIBARI,
DISTRICT- DHUBRI, ASSAM.

2: LUTFAR RAHMAN MOLLAH
ASSISTANT TEACHER (ARTS)

HOSSAIN MOHAMMODI HIGH SCHOOL

S/O- MOTIUR RAHMAN MOLLAH

VILLAGE AND P.O.- ASHARIKANDI

DISTRICT- DHUBRI
ASSAM.

3: ALAUDDIN MOLLAH
ASSISTANT TEACHER (SCIENCE)

HOSSAIN MOHAMMODI HIGH SCHOOL

S/O- ABDUL MOTLEB HUSSAIN MOLLAH

VILLAGE- LALMONIR ALGA

P.O.- ASHARIKANDI

DISTRICT- DHUBRI
ASSAM.

4: ALIM ARDUS RAHMAN
ASSISTANT TEACHER (ARTS)

BANGALIPARA HIGH SCHOOL

S/O- LATE SOFIOR RAHMAN

VILLAGE- BANGALIPARA PART-I

P.O. AND P.S.- BILASIPARA

DISTRICT- DHUBRI
ASSAM.

5: ABDUL JALIL AHMED
ASSISTANT TEACHER (SCIENCE)

BANGALIPARA HIGH SCHOOL

S/O- ABDUL GAFUR AHMED

VILLAGE- BANGALIPARA PART-II

P.O. AND P.S.- BILASIPARA

DISTRICT- DHUBRI
ASSAM.

6: ABDUL GAFFUR
ASSISTANT TEACHER (SCIENCE)

RANGAMATI HIGH SCHOOL

S/O- LATE BILLAL HUSSAIN

VILLAGE- BANGALDOBA

P.O.- NAYEKGAON

DISTRICT- KOKRAJHAR (BTR)
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (SECONDARY),
DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR
SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE STATE LEVEL SCRUTINY COMMITTEE
REPRESENTED BY ITS CHAIRMAN/ THE DIRECTOR OF SECONDARY
EDUCATION
ASSAM

KAHILIPARA
GUWAHATI- 781019.

4:THE INSPECTOR OF SCHOOLS
DHUBRI DISTRICT CIRCLE
DHUBRI
P.O. AND DISTRICT- DHUBRI

ASSAM
PIN- 783301.

5:THE SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI- 781006

Advocate for the Petitioner : MR. D A KAIYUM

Advocate for the Respondent : SC, SEC. EDU.

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

ORDER

Date : 29.01.2024

Heard Mr. D. A. Kaiyum, learned counsel for the petitioners. Also heard Mr. S. M. T. Chistie, learned standing counsel, Elementary Education Department, appearing on behalf of Respondents No. 1, 2 3 & 4; and Mr. P. Nayak, learned standing counsel, Finance Department, appearing on behalf of Respondent No. 5.

2. With the consent of the parties; this writ petition is taken-up for disposal at the motion stage itself.

3. The petitioners in the present proceedings, are all working as Assistant Teachers(Arts) and Assistant Teachers(Science) in different High Schools in the District of Dhubri and were appointed by the School Managing Committees in their respective schools in such capacities when the said schools were in the venture stage. The cases of the serving teachers of the schools wherein the petitioners were so working, was taken-up for consideration for provincialization of their services under the provisions of the Assam Venture Educational Institutions(Provincialization of Services) Act, 2011.

4. The names of the petitioners were also placed along with other eligible teachers in their respective schools before the jurisdictional District Level Scrutiny Committee(DLSC) for scrutiny of their records.

5. It is the contention of the petitioners that the names of the petitioners were not recommended by the jurisdictional District Level Scrutiny Committee(DLSC) while the names of other serving teachers in their respective schools came to be so recommended. The other eligible teachers recommended by the jurisdictional District Level Scrutiny Committee(DLSC) came to be provincialized in their services w.e.f. 01.11.2013. However, the petitioners although being similarly placed, were not extended with such benefits. After enactment of the Assam Education (Provincialization of Services of Teacher and Re-organization of Educational Institutions) Act, 2017, the cases of the

petitioners were again placed before the jurisdictional District Level Scrutiny Committee (DLSC) for scrutiny and verification.

6. It is the projected case of the petitioners that their names were now recommended by the jurisdictional District Level Scrutiny Committee(DLSC) and forwarded to the Director, Secondary Education Department, Assam, for placing such recommendations before the State Level Scrutiny Committee(SLSC). It is the contention of the petitioners that the recommendations as available in their favour by the jurisdictional District Level Scrutiny Committee (DLSC), cannot be kept pending and must be so placed before the State Level Scrutiny Committee(SLSC) at the earliest to facilitate the petitioners' cases to be so evaluated for provincialization of their services. However, the delay occasioning in the matter has caused prejudice to the petitioners herein.

7. As projected in the writ petition, it is seen that the names of the petitioners were recommended by the jurisdictional District Level Scrutiny Committee(DLSC) under the provisions of the Assam Education (Provincialization of Services of Teacher and Re-organization of Educational Institutions) Act, 2017, and it is not clear as to whether such recommendations have been placed for consideration of the State Level Scrutiny Committee(SLSC) under the provisions of Section 13 of the Assam Education (Provincialization of Services of Teacher and Re-organization of Educational Institutions) Act, 2017. The recommendations as made in favour of the petitioners by the jurisdictional District Level Scrutiny Committee(DLSC) has naturally given rise to a legal right to the petitioners to have their cases further considered in terms of the provisions of the said Assam Education (Provincialization of Services of Teacher

and Re-organization of Educational Institutions) Act, 2017, by the State Level Scrutiny Committee (SLSC) for provincialization of their services and such legal right as accruing to the petitioners cannot be denied to them.

8. In view of the said position and there being no clarity as to how the case of the petitioners were considered after their names were so recommended by the jurisdictional District Level Scrutiny Committee(DLSC); this Court hereby directs the Director, Secondary Education Department, Assam, to place the cases of the petitioners before the State Level Scrutiny Committee(SLSC) for further evaluation.

9. The State Level Scrutiny Committee(SLSC) on receipt of the proposal in respect of each of the petitioners from the Director, Secondary Education Department, Assam, shall consider such proposal strictly in accordance with the provisions of Section 13(11) of the Assam Education (Provincialization of Services of Teacher and Re-organization of Educational Institutions) Act, 2017, and upon such verification as called for; make its separate recommendations in respect of each of the petitioners.

10. The recommendations that would be made by the State Level Scrutiny Committee(SLSC) in respect of each of the petitioners shall be communicated to them by the Director, Secondary Education Department, Assam, in the form of a speaking order. In the event, the State Level Scrutiny Committee (SLSC) recommends for provincialization of the services of the petitioners, the Director, Secondary Education Department, Assam, shall carry out the further requisite

steps for effecting the provincialization of the services of the petitioners in terms of the recommendations made in this connection by the State Level Scrutiny Committee(SLSC).

11. The Director, Secondary Education Department, Assam, on receipt of a certified copy of this order, shall process and place the individual cases of the petitioners before the State Level Scrutiny Committee(SLSC) within a period of 1(one) month thereof.

12. The State Level Scrutiny Committee(SLSC) shall thereafter complete and make its recommendations with regard to each of the petitioners herein separately within a period of 3(three) months from the date of receipt of the proposal in this connection from the Director, Secondary Education Department, Assam. Thereafter, the Director, Secondary Education Department, Assam, on receipt of the recommendations of the State Level Scrutiny Committee (SLSC), shall communicate the same to the petitioners individually in the form of a speaking order within a period of 1(one) month thereof.

13. With the above directions, this writ petition stands disposed of at the motion stage itself.

JUDGE

Comparing Assistant