

GAHC010016262024



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

Case No. : WP(C)/463/2024

DIPAK CHANDRA NATH AND 5 ORS
S/O SRI MAHESH CHANDRA NATH, R/O RANGIYA WARD NO. 5, NEAR B.ED
COLLEGE, DIST-KAMRUP, ASSAM, PIN-781354

2: SMTI KALYANI DEKA
W/O SRI AJIT SALOI
R/O VILL- SINGARPARA
P.O.-KENDUA
DIST-KAMRUP
ASSAM
PIN-781121

3: HATIMUDDIN AHMED
S/O LATE M. ALI
R/O TIPKURI
P.S.-RANGIYA
DIST- KAMRUP
ASSAM
PIN-781334

4: SMTI DIPAMONI CHOUDHURY
W/O SRI RAJ BARUA
R/O NICHILAMARI
P.O.-ORANG
DIST- UDALGURI
ASSAM
PIN-784114

5: JAGADISH BHUYAN
S/O SRI SHANTIRAM BHUYAN
R/O CHEYAPARA
PATHURIGHAT
ASSAM
PIN-784144

6: SMTI JYOTIKA DEKA
W/O DR. RATUL PATOWARY
R/O WEST JALUKBARI (LANKESWAR)
NAMGHAR PATH
P.O.-GAUHATI UNIVERSITY
DIST-KAMRUP
ASSAM
PIN-78101

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, SECONDARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI-781006

2:THE DIRECTOR TO THE GOVERNMENT OF ASSAM
SECONDARY EDUCATION DEPARTMENT
KAHILIPARA
GUWAHATI-781019

3:THE INSPECTOR OF SCHOOLS
KAMRUP DISTRICT CIRCLE
KAMRUP
ASSAM

4:THE PRINCIPAL
VIDYA BHARATI SENIOR SECONDARY SCHOOL
SINGERPARA
DIST-KAMRUP
ASSAM
PIN-78112

Advocate for the Petitioner : MR. J PATOWARY

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 05.02.2024

Heard Mr. J. Patowary, learned counsel for the petitioners. Also heard Mr. S. M. T. Chistie, learned standing counsel, Education (Secondary) Department, representing all the respondents.

2. The petitioners, by way of the present proceeding, have raised their grievances with regard to the non-consideration of the recommendations made in their respective cases by the jurisdictional District Scrutiny Committee for provincialization of their services as Teachers/Tutors in their respective subjects in Vidya Bharati Senior Secondary School, Kamrup on the ground that the names of the petitioners were not found captured in the DISE data, purportedly maintained for the Vidya Bharati Senior Secondary School.

3. The petitioners were all initially appointed as Lecturers in Vidya Bharati Senior Secondary School, Kamrup. The petitioner no. 1 was appointed as a Lecturer in the Department of Economics on 03.08.2020. The petitioner no. 2 was so appointed as a Lecturer in the Department of Philosophy on 01.10.2001. The petitioner no. 3 was so appointed as a Lecturer in the Department of Political Science on 01.08.2002. Similarly, the petitioner no. 4 was appointed as a Lecturer in the Department of English on 14.10.2003. The petitioner no. 5 was appointed as a Lecturer in

the Department of History on 18.11.2004 and the petitioner no. 6 was appointed as a Lecturer in the Department of Assamese on 01.04.2010.

4. The petitioners contend that the cases of eligible teachers of Vidya Bharati Senior Secondary School, Kamrup, including that of the petitioners, were taken up for consideration for provincialization under the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017 (in short "Act of 2017") and on conclusion of the process, while services of other similarly situated teachers working in the school came to be provincialized, the cases of the petitioners for such provincialization were not considered favorably although the District Scrutiny Committee had recommended their cases for such provincialisation as Teachers/Tutors.

5. It is the case of the petitioners that the respondent authorities have refused to consider their cases for provincialization only on the ground that their name did not figure in the DISE data stated to be available for the School in question.

The provision of the Act of 2017 requires the particulars of a School to be captured in the DISE data and a DISE code is required only in case of a Venture Lower Primary School or Upper Primary School, whereas such requirement is not mentioned for a Venture Higher/Senior Secondary School. However, the respondents have not considered the case of the petitioners as their names, purportedly did not figure in the DISE data.

6. A Coordinate Bench of this Court in WP(C)1353/2022 (*Kishor Kumar Nath & Ors. -Vs- The State of Assam & Ors.*) and other connected writ petitions, vide judgment & order dated 12.04.2023, had dealt with the said issue and concluded as follows:-

"16. Therefore, a conjoint reading of the provisions referred to hereinabove in respect to the Act of 2017 there is no requirement for the names of the teachers working in the 'Venture High School' as well as 'Venture Higher Secondary School' as defined in Section 2(x) and 2(y) of the Act of 2017 to have their names captured in the DISE Code as is otherwise required in the case of a teachers/tutors whose services are to be provincialised in respect of 'Venture ME School' and 'Venture Lower Primary School' as well as 'Venture Upper Primary School' as defined in Sections 2(za), 2(zb) and 2(zc) of the Act of 2017 wherein the names of such teachers or tutors are required to be captured in the DISE Code up to 2009-10.

17. In the backdrop of the above, let this Court take into consideration the case of the petitioners before this Court in the present batch of writ petitions. The learned counsel for the petitioners has submitted that the concerned respondent authorities have not processed the proposals for provincialisation of the services of the petitioners who are working in 'Venture High Schools' and 'Venture Higher Secondary Schools' on the ground that the petitioners' names are not captured in the DISE Code. It is also the case of the petitioners that the concerned authorities have issued communication not to process such proposals of provincialisation of services of teachers/tutors whose names have not been captured in the DISE Code.

18. This Court, on the basis of the above analysis of the provisions of the Act of 2017, is of the opinion that the insistence of the respondent authorities of the names of petitioners who have been rendering services in 'Venture High School' and 'Venture Higher Secondary School' to be captured in the DISE Code of 2009-

10 is contrary to the Act of 2017 as it is not the mandate of the Act of 2017 to fulfill such requirement in respect to such teachers and/or tutors working in 'Venture High School' and 'Venture Higher Secondary School' to have their names captured in the DISE Code upto 2009-10. Such insistence is arbitrary and contrary to the provisions of the Act of 2017 and accordingly interfered with."

7. In view of the said position, this writ petition stands disposed of with a direction to the respondent authorities, more particularly, the Director of Secondary Education, Assam to consider the case of the petitioners for provincialisation of their services as Teachers/Tutors by having the recommendation made in case of the petitioners by the jurisdictional District Scrutiny Committee scrutinized by the State Level Committee in terms of the provisions of Section 13(10).

It is provided that the State Level Committee in terms of Section 13(11) shall be at liberty to carry out physical verification of the institution of the petitioner and call for such other record and documents as may be required for the purpose of verification of particular of the petitioners and also to examine as to whether the petitioners were in continuous service since the dates of their initial appointment. After verification of all such documents and records that may be produced before it, also carrying out of physical verification of the institution, the State Level Committee shall come to a conclusion with regard to the recommendation made by the District Scrutiny Committee in favor of the petitioners for provincialisation of their services against the post of Lecturers in their respective Departments in Vidya Bharati Senior Secondary School, Kamrup.

8. The State Level Committee or any other authority shall not insist upon the petitioners for producing a DISE code of the year 2009-10, or prior thereto, or thereafter.

9. The above exercise shall be completed within a period of 6(six) months from the date a certified copy is placed before the Director of Secondary Education, Assam.

10. The decision that would be arrived at in the matter shall be communicated to the petitioners in the form of a speaking order.

The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant