

WP(C) 2874/2016
BEFORE
HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI

Heard M. K. Choudhury, learned Senior counsel, appearing for applicant, who is respondent No. 8 in the writ petition. Also heard Mr. M. U. Mondal, learned counsel for the writ petitioner/opposite party No. 9. Also heard Mr. A. Deka, learned Standing counsel, Education (Elementary) Department, appearing for opposite party Nos. 1 to 5, Mr. D. P. Borah, learned counsel, appearing for opposite party No. 6, and Ms. A. Verma, learned Standing counsel, Finance, appearing for opposite party No. 9. None appears for respondent No. 7.

By this Interlocutory Application, the applicant is seeking vacation of the interim order dated 13.05.2016, passed in WP(C) 2874/2016, whereby this Court had directed the respondent authorities not to provincialise the service of respondent No. 8 (i.e., the applicant herein) without considering the case of the writ petitioner.

It is seen that in the writ petition the petitioner had prayed for setting aside and quashing of the order dated 22.09.2014 (Annexure-14) in respect of the service of respondent Nos. 6 and 7, who, according to the writ petitioner, are junior to the petitioner and whose services had been provincialised. No prayer is made seeking any relief against respondent No. 8.

Interim orders are passed to protect the interest of the parties on the touchstone of the main relief(s) prayed for. When no relief was prayed for against the respondent No. 8, I am of the considered opinion that the interim order directing the respondents not to provincialise the service of respondent No. 8 requires to be vacated. Accordingly, the interim order dated 13.05.2016 is vacated.

The Assam Venture Educational Institutions (Provincialization of Services) Act, 2011 (hereinafter referred to as the Provincialization Act,) was declared ultra-vires by this Court in the case of Chandan Kumar Neog and Others vs. State of Assam and Others [WP(C) 3190/2012 and other connected cases], which was disposed of on 23.09.2016 and, therefore, even with the vacation of the interim order as on today, no provincialisation of the service can take place in respect of respondent No. 8.

Interlocutory Application stands disposed of accordingly.