

GAHC010087052021



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

Case No. : WP(C)/3307/2021

BHASKAR RAJKHOWA
S/O. TULSHI RAJKHOWA, VILL. AND P.O. RAIDONGIA, DIST. LAKHIMPUR,
ASSAM, PIN-784164.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE STATE LEVEL SCRUTINY COMMITTEE
REP. BY ITS CHAIRMAN
OFFICE OF THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI-19
ASSAM.

4:THE DISTRICT SCRUTINY COMMITTEE
REP. BY ITS CHAIRMAN
OFFICE OF THE DEPUTY COMMISSIONER
LAKHIMPUR
ASSAM
PIN-787001.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

LAKHIMPUR
NORTH LAKHIMPUR
P.O. NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM
PIN-787001.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER

NARAYANPUR EDUCATION BLOCK
P.O. DIKRONG
DIST. LAKHIMPUR
DCC
PIN-787001.

7:SOBIN SAIKIA
S/O. PUNANDAR SAIKIA
HEADMASTER
BAPUJI M.E. SCHOOL
VILL. AND P.O. RAIDONGIA
DIST. LAKHIMPUR
ASSAM
PIN-784164.

8:SMT. INDIRA BHORALI
ASSTT. TEACHER OF BAPUJI M.E. SCHOOL
VILL. AND P.O. RAIDONGIA
DIST. LAKHIMPUR
ASSAM
PIN-784164

Advocate for the Petitioner : MR. J I BORBHUIYA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

19.07.2021

Heard Mr. JI Borbhuiya, learned counsel for the petitioner. Also heard Mr. PN

Sarma, learned counsel for the respondents No.1, 2, 3, 5 and 6 being the authorities under the Elementary Education Department, Government of Assam and Mr. SR Barua, learned counsel for the respondent No.4 being the Deputy Commissioner, Lakhimpur.

Issue notice, returnable by six weeks.

Extra copies of the writ petition be served on the learned counsel for the respondents as indicated above within three days.

Petitioner to take steps for service of notice on the respondents No.7 and 8 by registered post with A/D within three days.

The petitioner Sri Bhaskar Rajkhowa was appointed as a social science teacher in the Bapuji ME School on 15.07.1997. The respondent No.7 Sri Sobin Saikia is the Headmaster of the concerned school and is stated to be a social science teacher having been appointed on 10.07.2002 and respondent No.8 Smti Indira Bhorali is also stated to be a social science teacher having been appointed on 30.07.2002. Admittedly, in terms of the length of service, the petitioner is senior to both the respondents No.7 and 8. It being a school having less than 100 students, the provincialisation would be governed by Section 3(XI) of the *Assam Education (Provincialisation of Services of Teachers and Re-Organisation of Educational Institutions) Act, 2017* (for short, the Act of 2017) and under Section 3(XI) of the Act of 2017, there is no such provision for provincialisation of a Headmaster. Both the services of respondent No.7 and respondent No. 8 have been provincialised. Although the respondent No.7 is the Headmaster it has to be understood that his services were provincialised as a social science teacher. As the provincialisation has been made ignoring the claim of seniority of the petitioner, we find a prima facie case being made out by the

petitioner.

Considering the balance of convenience and irreparable loss that the petitioner may suffer, it is directed that further effect of provincialisation be not given to respondents No.7 and 8 until further order(s).

List after six weeks.

JUDGE

Comparing Assistant