

GAHC010095822025



undefined

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

**Case No. : WA/169/2025**

SHOHIDUR RAHMAN  
S/O NASIR UDDIN SHEIKH, VILL. BANGAIJHAR, P.O. BASHABARI, DIST.  
GOALPARA, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS  
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF  
ASSAM, ELEMENTARY EDUCATION DEPTT., DISPUR, GUWAHATI 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI 19

3:THE CHAIRMAN

DIST. LEVEL SCRUTINY COMMITTEE (DLSC)  
GOALPARA  
ASSAM CUM THE ADDITIONAL DIST. COMMISSIONER (EDUCATION)  
GOALPARA  
ASSAM.

4:THE DIST. ELEMENTARY EDUCATION OFFICER

GOALPARA  
ASSAM.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

BALIJANA EDUCATION BLOCK  
SOALPARA ASSAM.

6:SHAJAHAN ALI MONAL

S/O LATE JOMSER ALI MONDAL  
VILL. SAKTOLA  
P.O. AOLATOLI  
P.S. LAKHIPUR  
DIST. GOALPARA  
ASSAM  
PIN 783129

7:MD. MOFIDUL ISLAM

S/O LATE HABIBAR RAHMAN  
VILL. BAPURBHITA  
P.O. DHAMAR RESERVE  
P.S. BAGUAN  
DIST. GOALPARA  
ASSAM PIN 78312

For the appellant : Mr. A.R. Bhuyan, Advocate

For the respondents : Mr. N.J. Khataniar,  
S.C., Elementary Education Deptt.

– B E F O R E –

**HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR**

**HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY**

**01-09-2025**

***(Ashutosh Kumar, C.J.)***

The appellant has questioned the judgment dated 10.04.2025 passed by a learned Single Judge of this Court in WP(C) 1717/2025, whereby the contentions raised on behalf of the appellant/writ petitioner have been rejected and the appellant/writ petitioner continues to be held as junior to respondent No.6 herein.

The short facts, which have led to filing of this appeal are that the appellant's service was provincialised as a Tutor sometimes in the year 2021 and

since then he has been serving in that capacity. Prior to that, he was appointed as the Headmaster of K.B. Memorial ME Madrassa on 16.01.2006 where he joined on 18.01.2006. In that madrassa, the respondent Nos.6 and 7 were also appointed as Assistant Teachers.

Under the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2017 (hereinafter to be referred as '2017 Act'), the District Level Selection Committee (hereinafter referred to be as 'DLSC'), Goalpara convened a meeting on 09.06.2018 and recommended both the appellant and the respondent No.7 for provincialisation as Tutors. The appellant was recommended for the subject of Social Science whereas the respondent No.7 for Languages. This recommendation was based on student enrollment and teaching subjects.

The appellant, who had B.A. degree and had been teaching all subjects, was found to be more qualified for Social Science, while the respondent No.6 had only a Higher Secondary certificate. Therefore, the respondent No.6 was not recommended for provincialisation for the subject of Social Science.

This decision of the DLSC was challenged by the respondent No.6 before the Educational Tribunal and later before the High Court. However, his claim was ultimately rejected. But then, again he preferred a fresh writ petition [WP(C) 4047/2023], which was disposed of on 14.08.2023 with a direction to the respondent No.1 to consider the appeal preferred by the respondent No.6, which was pending at that time.

In compliance of the aforesaid order, the respondent No.1 acted with dispatch and passed an order on 22.02.2024 without hearing the appellant even though the High Court's direction was to hear all the parties concerned.

By the afore-noted order, the respondent No.1 directed the DLSC,

Goalpara to re-examine the recommendation for provincialisation of the teachers at K.B. Memorial M.E. Madrassa under the 2017 Act. Thereafter, the DLSC held a meeting on 23.07.2024 and passed resolution that the respondent No.6 is senior to the appellant and further recommended that he (respondent No.6) be extended the benefit of provincialisation as Tutor for Social Science.

This was challenged by the appellant before the learned Single Judge, who dismissed the writ petition on several grounds but primarily for the reason that in the proceedings before the authorities, the appellant had stated on oath in his affidavit that he had been teaching Assamese subject and not Social Science.

The learned Single Judge, therefore, did not find it necessary to reopen the issue and to find out whether the respondent No.6 was teaching Social Science subject.

The entire decision of the learned Single Judge rested on the affidavit of the appellant in the proceeding.

There would be no quarrel to such finding, but objection has been raised on behalf of the appellant on the ground that the resolution was passed without hearing the appellant even though there was a direction of the High Court to hear all the parties before deciding the issue.

Let notice be issued to the respondents.

Mr. N.J. Khataniar, learned Standing Counsel, Elementary Education accepts notice on behalf of the respondent Nos.1 to 5.

Therefore, no formal steps need be taken in case of the aforesaid respondents.

Necessary response affidavit(s) on behalf of the respondent Nos.1 to 5 may be filed by the next date.

Let notice be issued to the respondent Nos.6 and 7 by both modes, i.e. by registered post with A/D as well as by usual process, on steps being taken by the appellant within a period of two weeks from today, returnable on **22.10.2025.**

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**