

GAHC010268952023



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

Case No. : WP(C)/6951/2023

PRAFULLA KALITA
S/O SRI CHENIRAM KALITA, R/O VILL-MOHIMABORI, P.O.-MOHIMABORI,
BLOCK-TITABOR, DIST-JORHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY DEPARTMENT OF SCHOOL
EDUCATION, GOVT. OF ASSAM, DISPUR, GHY-06

2:THE STATE LEVEL SCRUTINY COMMITTEE
REPRESENTED BY THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
GHY-19
KAMRUP (M)
ASSAM

3:THE DISTRICT SCRUTINY COMMITTEE
JORHAT DISTRICT
REPRESENTED BY DEPUTY COMMISSIONER
JORHAT DISTRICT

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
JORHAT DISTRICT
ASSAM

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
TITABOR BLOCK
JORHAT DISTRICT

6:SURYA BORTHAKUR
HEAD MASTER OF SONARAM SARMA BALYA BIDYAPITH ME SCHOOL

R/O VILL-MOHIMABORI
BLOCK- TITABOR
DIST-JORHAT
ASSA

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 01.12.2023

Heard Mr. B.K. Das, learned counsel for the petitioner. Also heard Mr. A. Phukan, learned counsel for the Elementary Education Department of Government of Assam.

2. Issue notice, returnable by six weeks.
3. Extra copies of the writ petition be furnished to the learned counsel for the respondents within three days.
4. Steps on the respondent No. 6 by registered post within three days.
5. The petitioner Prafulla Kalita and the respondent No. 6 Surya Borthakur are both teachers in the Sonaram Sarma Balya Bidyapith School in the Jorhat district and both of them claim to be language teachers in the school but when the process for provincialisation was undertaken as per the *Assam Education (Provincialisation of Services of Teachers and Re-Organization of Educational Institutions) Act, 2017* (in short, the Act of 2017), the respondent No. 6 was provincialised although in terms of service he is junior to the petitioner and both of them are language teachers.

6. As the law provides for provincialisation of only one language teacher it has to be understood that the senior between the two may have a better claim for provincialisation.

7. In view of the prima facie case being made out and considering the balance of convenience and irreparable loss that the petitioner may suffer, the benefits of provincialisation be not given to the respondent No. 6 Surya Borthakur until further orders.

^List after six weeks.

JUDGE

Comparing Assistant