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**(2021) 08 GAU CK 0001**

**In the Gauhati High Court**

**Case No : Writ Petition (Civil) No. 1613 Of 2021**

Debendra Nath Deka

APPELLANT

Vs

State Of Assam And 3 Ors

RESPONDENT

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**Date of Decision : 02-08-2021**

**Acts Referred:**

**Citation : (2021) 08 GAU CK 0001**

**Hon'ble Judges : Achintya Malla Bujor Barua, J**

**Bench : Single Bench**

**Advocate : A K Dutta**

**Final Decision : Disposed Of**

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## **Judgement**

1. Heard Mr. B Purkayastha, learned counsel for the petitioner. Also heard Mr. R Mazumdar, learned counsel for the respondents no. 1, 2 and 3 being

the authorities in the Secondary Education, Government of Assam and Mr. A Sarma, learned counsel for the respondent no. 4 Smt. Pranita Kalita.

2. Both the petitioner Debendra Nath Deka and the respondent no. 4 Pranita Kalita intend to be appointed as the Principal In-Charge of the Bezera

Higher Secondary School. The petitioner Debendra Nath Deka claims to be having the qualification of M.A./B.Ed. and he was appointed in the

intermediate scale on 23.04.1998 and thereafter, he has been receiving the graduate scale of pay from 22.11.1993.

3. The respondent no. 4 Pranita Kalita, who also has the qualification of M.A./B.Ed. has been receiving the graduate scale of pay from 26.09.1993.

Admittedly, from the date of receiving their respective graduate scales of pay, the respondent no. 4 Pranita Kalita would be senior to the petitioner

Debendra Nath Deka.

4. It is the stand of the petitioner Debendra Nath Deka that the respondent no. 4 Pranita Kalita was transferred to Bezera Higher Secondary School

from Dagaon High School by an order dated 11.04.2000 and the said order of transfer shows that the transfer was on the own request of the

respondent no. 4 Pranita Kalita and it was not in the public interest.

5. Accordingly, as per the procedure laid down by the respondent authorities in the notification dated 10.07.2012 it is stated that if a transfer of a

person is made in the school as per his/her own request, he/she would not get the benefit of past services in the earlier school for the purpose of

seniority in the school to which he/she was transferred.

6. If we follow the said propositions the respondent no. 4 Pranita Kalita would get her seniority in Bezera Higher Secondary School on and from

11.04.2000.

7. From the said point of view, the petitioner Debendra Nath Deka would be senior to the respondent no. 4 Pranita Kalita.

8. Mr. A Sarma, learned counsel for the respondent no. 4 Pranita Kalita raises an allegation that the M.A. degree of the petitioner Debendra Nath

Deka would be unacceptable inasmuch as the same was obtained from the Nagaland University.

9. We are not expressing any view on the acceptability of the said contention, but we require the respondents in the Secondary Education Department

to look into the said allegation and pass a reasoned order thereof. Another aspect of the matter is that when the matter was earlier remanded back by

the order dated 11.11.2020 in WP(C) 4674/2020 on the same subject matter, there was a requirement that all the parties interested would be given a

hearing but the order impugned in this writ petition dated 20.01.2021 by which the respondent no. 4 Pranita Kalita was allowed to be the In-Charge

Principal of Bezera High School was passed without hearing the others including the petitioner Debendra Nath Deka.

10. As regards the alleged third infirmity of not giving a hearing, we remand the matter back to the Director of Secondary Education, Assam for a

fresh consideration by giving a hearing to the petitioner Debendra Nath Deka as well as the respondent no. 4 Pranita Kalita and pass a reasoned order

thereon as to who between them would be most appropriate person to be the In-Charge Principal of the Bezera Higher Secondary School.

11. The allegation of the infirmity in the M.A. degree of the petitioner Debendra Nath Deka would be looked into by the Director as well as the

infirmity regarding the seniority of the respondent no. 4 Pranita Kalita be also looked into and a reasoned order be passed thereon.

12. The requirement of passing the reasoned order be done within a period of four weeks from the date of receipt of certified copy of the order and if

necessary, a personal hearing be given to the petitioner Debendra Nath Deka and the respondent no. 4 Pranita Kalita by informing the date, time and

place of the hearing. Till the order is passed by the Director of Secondary Education, Assam, the Inspector of Schools, Kamrup shall discharge the

duties of the Principal-In-Charge of Bezera Higher Secondary School. However, as we require the Inspector to discharge the duties of the Principal-

In-Charge of the Bezera Higher Secondary School, we also provide that under no circumstance, the Director shall take more than four weeks to

decide the matter.

13. Writ petition stands disposed of in the above terms.