

(2021) 08 GAU CK 0023

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 3118 Of 2021

Jarjina Yesmin Ansari

APPELLANT

Vs

State Of Assam And 7 Ors

RESPONDENT

Date of Decision : 06-08-2021

Acts Referred:

Assam Education (Provincialisation Of Services Of Teachers And Re-Organization Of Educational Institutions) Act, 2017 — Section 3(1)(x)

Citation : (2021) 08 GAU CK 0023

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : H Das

Final Decision : Disposed Of

Judgement

1. Heard Mr. H. Das, learned counsel for the petitioner. Also heard Mr. N.J. Khatuniar, learned counsel for the respondents No.1, 2, 3 and 5 being

the authorities under the Elementary Education Department of the Govt. of Assam and Ms. D.D. Barman, learned Additional Senior Govt. Advocate

for the respondent No.4.

2. Considering the nature of the order proposed to be passed, we deem it appropriate that notice need not be issued on respondent Nos. 6 and 7.

3. The petitioner was appointed as an Assistant Teacher in the Bechamari Abdul Sattar L.P. School in the Nagaon district on 17.10.2009. Earlier

there was a dispute between the petitioner Jarjina Yesmin Ansari and the other teacher Rinama Khatun as to who between the two would be the first

Assistant Teacher of the school. Consequently, Rinama Khatun had instituted WP(C) 2361/2020 claiming that she had submitted representation on

08.01.2018 and that she ought to be the first Assistant Teacher of the school.

The said writ petition was given consideration by the order dated 09.06.2020, wherein, the Director of Elementary Education, Assam was required to decide the dispute between the petitioner and Rinama Khatun by giving them an opportunity of hearing. Consequent thereto, the District Elementary Education Officer by communication dated 13.08.2020 to the Director of Elementary Education, Assam had arrived at its conclusion that the writ petitioner is the first Assistant Teacher having been appointed on 17.10.2009 and Rinama Khatun is the second Assistant Teacher having been appointed on 24.11.2009.

4. It is the grievance of the petitioner that although she had been declared to be the first Assistant Teacher of the school, the authorities concerned

had not subjected her for consideration for being provincialised under the Assam Education (Provincialisation of Services of Teachers and Re-

Organization of Educational Institutions) Act, 2017 (in short Act of 2017).

5. Mr. H. Das, learned counsel has referred to the provision of Section 3 (1)(x) of the Act of 2017 which inter alia provides that two number of

teachers or tutors of the venture L.P. School would be provincialised under the Act of 2017. It is also stated that because of the dispute between the

petitioner and other teacher Rinama Khatun in respect of Bechamari Abdul Sattar L.P. School, the only one teacher namely, Shaida Khatun was

provincialised.

6. In the circumstance, we have to understand that out of the two teachers of the school who are to be provincialised only one of them has been

provincialised and the second teacher is yet to be provincialised. As the petitioner had got a decision from the authorities that she would be the next

teacher in order of seniority in the school for provincialisation, a legal right has accrued to her under the provision of Section 3 (1)(x) of the Act of

2017 atleast for a consideration under the Act for provincialisation.

7. We are in agreement with the submission of the learned counsel for the petitioner. Accordingly, this petition stands disposed of directing the

Headmaster of Bechamari Abdul Sattar L.P. School L.P. School to transmit the service particulars of the petitioner to the District Scrutiny Committee

of Nagaon district for its consideration. The District Scrutiny Committee after verification of record, shall pass a reasoned order on the claim of the

petitioner for such provincialisation.

8. The Headmaster of Bechamari Abdul Sattar L.P. School shall transmit the service particulars of the petitioner within a period of 15 days from the date of receipt of the certified copy of the order and thereafter the District Scrutiny Committee within a period of two months thereafter shall pass the reasoned order on the same.

9. In the event, the conclusion arrived at by the District Scrutiny Committee is in favour of the petitioner, necessary steps be taken as per the Act of 2017.

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