
(2021) 07 GAU CK 0094

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 2122 Of 2021

Lakhi Nath Chientey

APPELLANT

Vs

State Of Assam And 6 Ors

RESPONDENT

Date of Decision : 16-07-2021

Acts Referred:

Assam Education (Provincialisation Of Services Of Teachers And Re-Organisation Of Educational Institutions) Act, 2017 — Section 3(xi)

Citation : (2021) 07 GAU CK 0094

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : B K Das

Final Decision : Disposed Of

Judgement

1. Heard Mr. BK Das, learned counsel for the petitioner. Heard Mr. B Kaushik, learned counsel for the respondents no. 1, 2, 3, 4 and 5 being the

authorities under the Elementary Education Department, Government of Assam and Mr. SR Barua, learned counsel appears for the respondent no. 3

being represented by the Deputy Commissioner, Majuli/Jorhat.

2. It is stated that the respondent no. 6 has wrongly been impleaded in this case and accordingly the array of respondent no. 6 stands deleted.

3. Considering the nature of the order proposed to be passed, we deem it appropriate notice need not to be issued to the respondent no. 7 being the

Headmaster of Tribeni Missing Janajati ME for the present.

4. The petitioner is appointed as an Assistant Teacher in Tribeni Missing Janajati ME School on 05.02.1987 and since then the petitioner has been

rendering his services continuously and to the satisfaction of all concerned. It is also stated that the name of the petitioner is available in the DISE for

the academic period 2011/2012 and his name also appears at Sl. No. 3 in the staff pattern maintained under the DISE. When the process of provincialisation of the teaching staff of the school was given a consideration, two other teachers namely Ananta Payeng who is a language teacher and Sashidhar Boruah who is a science/mathematics teacher were provincialised. The petitioner is a social science teacher of the school but his case for provincialisation was not given a due consideration.

5. Section 3(xi) of the Assam Education (Provincialisation of Services of Teachers and Re-Organisation of Educational Institutions) Act, 2017

provides for teachers one each of language, science/mathematics and social science to be provincialised. As the petitioner is a social science teacher and no one had been provincialised against the post of social science teacher, we are of the view that the petitioner has a legal right at least to be consideration for such provincialisation.

6. In view of the above, as agreed between the parties, this writ petition stands disposed of by requiring the petitioner to submit a representation

bringing on record the aforesaid facts and claims before the Director of Elementary Education, Assam. Upon such representation being submitted the

Director shall pass a reasoned order within a period of two months from the date of receipt of the representation. In doing so, the Director shall verify

from records as to whether the petitioner is entitled for such provincialisation. We clarify that the requirement of passing the order on the claim of the

petitioner should not be construed to be a direction of the Court to provincialise the service of the petitioner but on the other hand, the Director will

take his own independent decision based on the facts, circumstance and relevant rules.

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