
(2019) 07 GAU CK 0060
In the Gauhati High Court
Case No : Writ Petition (C) No. 5666 Of 2015

Ruhini Kr. Nath And 3 Ors

APPELLANT

Vs

State Of Assam And Anr

RESPONDENT

Date of Decision : 31-07-2019

Acts Referred:

Citation : (2019) 07 GAU CK 0060

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : A R BHUYAN, T C CHUTIA, D K ROY

Final Decision : Disposed Off

Judgement

Heard Mr. A.R. Bhuyan, learned counsel for the petitioners. Also heard Mr. J. Abedin, learned Standing Counsel, Secondary Education and Mr. D.K. Roy, learned Standing Counsel, SEBA for the respondents.

In this petition, the petitioners have challenged the order dated 27.7.2015 by which the petitioners, who were already provincialized in their respective posts as Hindi Assistant Teachers in their respective Schools by the order dated 20.08.2013, had been revoked by stating that their claim for provincialization has been rejected.

The petitioners claim that since the petitioners have been provincialized in their respective posts on 20.8.2013 by following due process of law and as per Rules, the question of rejection of their provincialization does not arise at this stage, as the same amounts to termination of their services.

This Court finds force in the submission advanced by the learned counsel for the petitioners. Once the service of a teacher has been provincialized, it stands regularized to the post to which he or she has been so appointed. If the service of such provincialized/regularized teacher is to be de-provincialized, it can only be done by issuing appropriate orders i.e. for example, by an order of penalty of

removal from service, disciplinary enquiry or on conviction by a court.

In the present case, no such eventuality has taken place. The benefit or provincialization has been sought to be taken away by the State merely on the ground that no student in the said subject is available in the said Schools. Lack of student cannot be a reason for revoking the services of the petitioners, unless the same is a policy decision of the State. Learned counsel for the petitioners submits that lack of students was not because of the fault of the petitioners. The fact remains that the authority cannot nullify the fact of the consequence of provincialization in the manner as has been sought to be done by the impugned order, except by resorting to lawful manner. In other words, the provincialization of the services of the petitioners cannot be taken away for the reasons mentioned in the impugned order and, accordingly, the petitioners shall be reinstated in services as provincialized teachers in their respective schools.

The impugned order dated 27.7.2015 has been stayed by this Court at the time of issuance of notice and, as such, the petitioners continues to be in service as provincialized Assistant Teacher, namely three petitioners No.1, 2 and 3 and their services have been utilized as the schools in which they were working was merged with upper primary school in which their services have been utilized as regular teacher. As regards petitioner No.4, his services has been utilized in the said school.

In view of the above, the impugned order dated 27.7.2015 is set aside with direction to the authorities to place the services of the petitioners in appropriate schools without disturbing their services as provincialized Hindi teacher.

The writ petition stands disposed of.