

Heard Mr. DK Sharma, learned counsel appearing for the petitioner. Also heard Mr. B Choudhury, learned Standing counsel, Education Department, Assam appearing for respondent Nos.1, 2 and 3.

Considering the grievance raised and as agreed to by the learned counsel appearing for the parties as well as the order which is going to be passed, the writ petition is being disposed of at the motion stage itself without issuing notice to the private respondents.

The petitioner's case in a nutshell is that he is the senior most graduate teacher of the Bagana High School (School, for short), Barpeta, without any blemish till date and he is also a physically challenged person. Prior to retirement of the earlier Headmaster of the School, the petitioner and respondent Nos. 4 and 5 appeared before the State Selection Board, (SLC for short) for selection to the post of Headmaster. Thereafter the respondent No.1 i.e., the Secretary to the Government of Assam, Education (Secondary) Department, Guwahati directed the petitioner and respondent Nos. 4 and 5 to appear before him on 27.12.2011 to determine the seniority. But instead of determining the seniority, the respondent No.1 vide order dated 27.12.2011 (annexure 1 to the writ petition) directed the IS, BDC, to hold the charge of the Headmaster of the School. The Headmaster of the School retired on 31.12.2011. Since the seniority has not yet been determined, the Inspector of Schools is still holding the charge of the Headmaster of the School till date. Thus being aggrieved the petitioner has submitted a representation on 02.07.2012 before the Director of Secondary Education, Assam. Till date, no order has been passed on the representation so submitted by the petitioner.

However, Mr. Choudhury, learned Standing counsel has brought to the notice of this Court, the provisions laid down in the Assam Secondary Education (provincialised) Services Rules, 2003 wherein Rule 24(2) (viii) provides that in case of any dispute the same may be finally decided by the Government.

Mr. Choudhury, therefore, submits that instead of submitting the representation before the Director of Secondary Education, Assam, the petitioner ought to have submitted the same before the respondent No.1, i.e., the Secretary, to the Government of Assam, Education, (Secondary) Department.

In view of the submission so made by the learned Standing counsel, Education Department as well as considering the matter in its entirety and also the fact that there is dispute regarding the seniority of the teachers in the School, this Court deems it fit and proper to dispose of the writ petition with a direction to the petitioner to submit a representation before the respondent No.1, Secretary to the Govt. of Assam, Education (Secondary) Department.

Accordingly this writ petition is disposed of directing the petitioner to submit a fresh representation before the respondent No.1 ventilating his grievances and for determining the seniority position amongst the teachers of the School. The respondent No.1 shall dispose of the representation so submitted by the petitioner with a speaking order within a period of 4(four) weeks from the date of receipt of the same. The petitioner shall submit a certified copy of this order along with a copy of the writ petition with the annexures appended thereto before the respondent No.1 for doing the needful.

Needless to say that before passing the speaking order, the respondent No.1 would serve notices on the respondent Nos.4 and 5 and after giving personal hearing to the petitioner as well as the respondent Nos. 4 and 5 shall pass the speaking order to that effect within the stipulated period.

Till then, the present arrangement i.e., holding the charge of Headmaster of the school by the Inspector of Schools, Barpeta District Circle, Barpeta shall continue.