

GAHC010083822017



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C) 460/2017**

1:FAZLUR RAHMAN MAZARBHUIYA  
S/O LT. ABDUR RAHMAN BARBHUIYA R/O TARAPUR PT.IV, P.O.  
RAMNAGAR, TARAPUR P.S. SILCHAR DIST. CACHAR, ASSAM.

VERSUS

1:THE STATE LEVEL SELECTION COMMITTEE and 3 ORS.  
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,  
GUWAHATI-6.

2:THE DIRECTOR OF SECONDARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-19.

3:THE DISTRICT LEVEL COMMITTEE  
REP. BY THE DEPUTY COMMISSIONER  
CACHAR  
DIST. CACHAR  
ASSAM.

4:THE INSPECTOR OF SCHOOLS  
CACHAR  
DIST. CACHAR  
ASSAM

**Advocate for the Petitioner : MR.J ISLAM**

**Advocate for the Respondent : MR. C K S BARUAH**

BEFORE  
**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**31.07.2018**

Heard Mr. J. Islam, learned counsel for the petitioner and Mr. CKS Barua, learned Government Advocate, Assam for the respondent Nos. 1 and 3. Also heard Mr. A. Deka, learned Standing Counsel, Education Department, Assam for the respondent Nos. 2 and 4.

**2.** For proper adjudication of the case, the petitioner is allowed to implead the Commissioner & Secretary to the Government of Assam in the Finance Department, Assam as party respondent No. 5 in the present proceeding and to correct the cause title by hand.

**3.** As Mr. P. Nayak, learned Standing Counsel, Finance Department, Assam has entered appearance and accepted notice in the matter, as such no formal notice need to be issued.

**4.** It is stated that petitioner's father Abdur Rahman Mazarbhuiya was serving as a Hindi Teacher in H.M.A. Laskar High School in the district of Cachar under the Inspector of Schools, Cachar District Circle, Silchar and his father died-in-harness on 10.04.2010, leaving behind his widowed mother, the petitioner himself and his 2 minor brothers and one minor sister. In this regard, the petitioner has placed Legal Heirship Certificate dated 29.09.2010 issued by the Office of the Deputy Commissioner, Cachar, Silchar.

**5.** The petitioner being Higher Secondary/(10+2) Class passed candidate with 52.6% in aggregate, being eligible, applied for his compassionate appointment to the post of Assistant Teacher in Upper Primary Schools under the die-in-harness scheme of the State.

**6.** The District Level Committee (DLC), Cachar, Silchar for compassionate appointment in its meeting held on 09.06.2014 on verification of records found that from the year 1996 to 2012 altogether there were 268 numbers of vacancies for the post of Assistant Teachers in Upper Primary Schools in Cachar District under the District Elementary Education Officer

(DEEO), Cachar, Silchar and under permissible 5% quota on those 268 vacancies, 13 posts were found for compassionate appointment and that the said DLC in its meeting held on 15.03.2012 already recommended 12 candidates for compassionate appointment, leaving the balance of 1 post.

**7.** The said DLC in its meeting of 09.06.2014 also found that from 01.01.2013 to 31.12.2013 there were 49 numbers of vacancies and w.e.f. 01.01.2014 to 31.03.2014, vacancies of 108 numbers were found for the post of Assistant Teachers in Upper Primary Schools in Cachar District under the DEEO, Cachar, Silchar and all together 157 (49+108) vacancies from 01.01.2013 to 31.03.2014 and under permissible 5% quota on those 157 vacancies, 8 posts were found for compassionate appointment. The said DLC in its meeting held on 09.06.2014 accordingly calculated one balance post from its meeting dated 15.03.2012 and 8 posts from the said meeting dated 09.06.2014, in total 9 nos. of posts under 5% quota of for compassionate appointment under die-in-harness scheme.

**8.** In the said meeting dated 09.06.2014, the DLC Cachar, Silchar considered the case of the petitioner for his compassionate appointment as Upper Primary Schools Teacher under the DEEO, Cachar, Silchar and recommended him to the State Level Committee (SLC), along with 7 others.

**9.** The SLC in its meeting held on 16.06.2016 while considering the cases of the recommended candidates of Cachar District for compassionate appointment as Upper Primary Schools Teacher, including the petitioner and others, rejected his case on the ground of being under qualified/due to lack of vacancy/due to lack of valid documents, accepting candidature of only 2 candidates recommended by the DLC Cachar, Silchar on 09.06.2014.

**10.** The petitioner contends that in spite of having proper and requisite qualifications, the SLC in its meeting dated 16.06.2016 arbitrarily rejected his case for compassionate appointment and hence, he has preferred this writ petition praying for an appropriate writ and/or necessary direction to the respondents herein to reconsider the case of the petitioner and for a direction to appoint him on compassionate ground.

**11.** From the minutes of the SLC dated 16.06.2016, annexed to the writ petition, it is seen that in the said meeting, the SLC in one go, had considered the recommendations of the DLC,

Cachar, Silchar of 07.08.2009, 10.12.2013 and 09.06.2014 and rejected the case of the applicants, including the petitioner, for their compassionate appointment on the ground of "being under qualified/due to lack of vacancy/due to lack valid documents", without any independent finding.

**12.** It is also seen that the SLC in its meeting dated 16.06.2016, it has clubbed together three recommendations of DLC Cachar, Silchar 07.08.2009, 10.12.2013 and 09.06.2014 and the said decision of the SLC dated 16.06.2016 is not in conformity with the guidelines laid down by the Court in the case of *Achyut Ranjan Das -Vs- state of Assam & others*, reported in 2006 (4) GLT 674.

**13.** For the reasons above, the impugned decision of the SLC dated 16.06.2016 pertaining to the petitioner, is set aside and quashed, remanding back the matter for a fresh conclusion on merit in accordance with law and the guidelines laid down by the Court in the cases of *Achyut Ranjan Das -Vs- state of Assam & others*, reported in 2006 (4) GLT 674, *Ajit Pator and Ors. -Vs- State of Assam and Ors.*, reported in 2009 (3) GLT 306 and *Faziron Nessa and Ors. -Vs- State of Assam and Ors.*, reported in 2010 (4) GLT 340.

**14.** However, the SLC, while considering the case of the petitioner afresh, shall also consider the date of application of the petitioner for his compassionate appointment, if necessary, by calling for the report in that regard from the DLC Cachar, Silchar as it is seen that as per minutes of the DLC, Cachar, Silchar dated 09.06.2014, annexed to the writ petition, the petitioner's application for compassionate appointment was of 13.06.2011, whereas his father expired on 10.04.2010, that is beyond one year period. The petitioner has also not annexed his application for compassionate appointment to apprise the Court as to when he filed his said application before the authority nor specified the date of filing of his said application in the writ petition.

**15.** Consequently, it is directed that on receipt of certified copy of this order to be submitted by the petitioner before the Commissioner & Secretary to the Government of Assam in the Elementary Education Department, Assam, he shall place the matter of the petitioner before the SLC in its next meeting and shall intimate the outcome of SLC's decision to the petitioner.

**16.** With the aforesaid observation and direction this writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**