



GAHC010088512020

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

Case No. : WP(C)/2636/2020

RAJENDRA CHAUHAN

S/O- PREM CHAND CHAUHAN, ADDRESS- VILL- PULIA BASTI, P.O AND P.S-
BARLANGFER, DIST- KARBI ANGLONG, ASSAM, PIN- 782447

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
SECONDARY EDUCATION, DISPUR, GUWAHATI- 781006

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

3:THE CHIEF EXECUTIVE MEMBER (CEM)
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
PIN- 782460

4:THE SECRETARY
DEPTT OF SECONDARY EDUCATION
KARBI ANGLONG DISTRICT CIRCLE
DIPHU
PIN- 782460

5:THE INSPECTOR OF SCHOOLS
KARBI ANGLONG DISTRICT CIRCLE
DIPHU
PIN- 782460

6:DISTRICT SELECTION COMMITTEE



REP. BY THE MEMBER SECRETARY EX OFFICIO INSPECTOR OF SCHOOLS
KARBI ANGLONG DISTRICT CIRCLE
DIPHU
PIN- 782460

7:THE HEAD MASTER
BORLANGPHER HIGH SCHOOL
KARBI ANGLONG
DIPHU
ASSAM
PIN- 782447

8:RUDRA MOHAN GOSWAMI
HEADMASTER BORLANGPHER HIGH SCHOOL
BORLANGPHER
KARBI ANGLONG
DISPHU
ASSAM
PIN- 78244

Advocate for the Petitioner : MR. S S S RAHMAN
Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

Date : 22-03-2022

JUDGMENT & ORDER (ORAL)

Heard Mr. SSS Rahman, learned counsel for the petitioner, Mr. SMT Chisti, learned counsel for the respondents No. 1 and 2 being the authorities in the Secondary Education Department of the Government of Assam, Mr. J Chutia, learned counsel for the respondents No. 3, 4, 5 and 6 being the authorities in the Karbi Anglong Autonomous Council (in short KAAC) and Mr. S Banik, learned counsel for the respondent No. 8. As the respondent No. 8 is also the respondent No. 7, we are not required to hear the respondent No. 7 separately.

2. The petitioner Rajendra Chauhan having the qualification of M.A, B.Ed, is the Science Teacher in the Borlangpher High School in the Karbi Anglong district

was appointed on 09.02.2000. The respondent No. 8 Rudra Mohan Goswami having the qualification of B.A, B.Ed was also an Assistant Teacher in the school appointed on 19.02.1990. After being subjected to a selection process, the respondent No. 8 Rudra Mohan Goswami by the order impugned dated 12.03.2020 of the Inspector of Schools, Karbi Anglong District Circle was promoted to the post of Headmaster of Borlangpher High School.

3. The order of 12.03.2020 appointing the respondent No. 8 as the Headmaster is assailed in this writ petition. Mr. SSS Rahman, learned counsel for the petitioner raises a threefold contention to assail the order of promotion dated 12.03.2020. The first contention is that there was no district wise seniority list prepared in the Karbi Anglong district for the purpose of effecting the promotion to the post of Headmaster of High Schools. Secondly, the order of promotion in favour of the respondent No. 8 was made without there being any selection as required under Rule 14 of the Assam Secondary Education (Provincialised Schools) Service Rules, 2018 (in short Rules of 2018). The third contention is a general contention that the procedure prescribed under rule 14 of the Rules of 2018 had not been followed.

4. In order to mitigate the first contention, Mr. J Chutia, learned counsel for the respondents in the KAAC refers to the gradation list of the teachers of Borlangfer High School, which shows the respondent No. 8 Rudra Mohan Goswami at Serial No. 1, whereas the petitioner Rajendra Chauhan at Serial No. 7. By referring to the said seniority list, it is pointed out that the respondent No. 8 is senior to the petitioner.

5. With regard to the second contention that there was no selection, reference is made to the minutes of the District Selection Committee of KAAC, Diphu dated 25.10.2019, wherein it is provided that the respondent No. 8 Rudra

Mohan Goswami is recommended for promotion to the next higher rank of Headmaster of Borlangpher High School.

6. Mr. J Chutia, learned counsel for the KAAC further states that although the Rules of 2018 had not been adopted by the KAAC as required under the provision of sixth schedule to the Constitution of India, but at the same time, the spirit of Rule 14 of the Rules of 2018 is being followed by the authorities. In following the spirit of Rule 14 of the Rules of 2018, it is contended that instead of a district wise seniority list provided under the Rules, the authorities in the KAAC follows the procedure of school wise seniority list in respect of which the promotion to the post of Headmaster is to be made. Secondly, instead of it being a District Selection Committee as provided in the Rule 14, the authorities in the KAAC follows the procedure of the District Selection Committee in the KAAC. But for the criteria for promotion to the post of Headmaster, the KAAC follows the criteria provided under Rule 14 of the Rules of 2018, which is seniority and satisfactory Annual Confidential Report (in short ACR) for the last three consecutive years. Accordingly, it is contended that the District Selection Committee had followed the criteria of seniority and as the respondent No. 8 is admittedly senior to the petitioner, as indicated above and there being no unsatisfactory ACR in respect of the respondent No. 8, the District Selection Committee deemed it appropriate to recommend the respondent No. 8 for promotion to the post of Headmaster of Borlangpher High School.

7. Under the provision of Sixth Schedule to the Constitution of India, it is the prerogative of the KAAC to either frame its own laws or to adopt any other law for the purpose and in doing so, the KAAC authorities deemed it appropriate to follow the spirit of Rule 14 of the Rules of 2018. Under the scheme of the Sixth Schedule to the Constitution of India, we do not find any infirmity in the

procedure adopted by the KAAC. On the other hand, the authorities in the KAAC also deemed it appropriate to follow the criteria provided under Rule 14 of the Rules of 2018 i.e. seniority with satisfactory ACR to be the criteria for promotion to the post of Headmaster. The District Selection Committee had taken its decision to recommend the respondent No. 8 for the promotion by taking note of his seniority in the school wise seniority list as well as the aspect of there being no unsatisfactory ACR of the said respondent.

8. Considering both the aspect, we again do not find any infirmity in the procedure adopted by the authorities in the KAAC.

9. As regards the third contention that the authorities had not followed the procedure of Rule 14 of the Rules of 2018, we reiterate that under the scheme of the Sixth Schedule to the Constitution of India, it is the prerogative of the KAAC to either frame their own laws or to adopt any other laws for the purpose and in doing so, the KAAC authorities have followed the spirit of Rule 14 of the Rules of 2018 with its own applicable variance thereof. It being so permissible under the provisions of the Sixth Schedule to the Constitution of India, we are unable to accept the contention that as the procedure of Rule 14 of the Rules of 2018 had not been scrupulously followed, therefore the procedure adopted would be unacceptable in law.

10. In view of the aforesaid conclusion, we do not find any merit in this writ petition and accordingly the same stands dismissed. However, no order as to cost. Interim order, if any, stands vacated.

JUDGE

Comparing Assistant