

GAHC010003732023



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

Case No. : WP(C)/155/2023

UTTAR KHATOWAL INDIRA GANDHI LOWER PRIMARY SCHOOL AND ANR
REPRESENTED BY ITS IN-CHARGE
HEAD MASTER MD. ATIQR,
AGED ABOUT 41 YEARS,
SON OF LATE ABDUL KADIR,
VILLAGE- UTTAR KHATOWAL,
P.S.- RUPAHIHAT,
DISTRICT- NAGAON, ASSAM.

2: ELIZA BEGUM
WIFE OF MUSTAFFA KAMAL
VILLAGE- UTTAR KHATOWAL
P.S.- RUPAHIHAT DISTRICT- NAGAON
ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI- 06.

2:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM KAHILIPARA
GUWAHATI- 19.

3:THE MISSION DIRECTOR
SARBA SIKSHA ABHIYAN
ASSAM KAHILIPARA
GUWAHATI-19.

4:THE DEPUTY COMMISSIONER
NAGAON DISTRICT- NAGAON

ASSAM PIN- 782001.

5:THE ADDL. DEPUTY COMMISSIONER (EDUCATION)-CUM- DISTRICT
MISSION COORDINATOR
SARBA SIKSHA ABHIYAN
NAGAON DISTRICT- NAGAON
ASSAM PIN- 782001.

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NAGAON
DISTRICT- NAGAON
ASSAM PIN- 782001.

7:THE BLOCK ELEMENTARY EDUCATION OFFICER
LAOKHOWA
NAGAON
DISTRICT- NAGAON
ASSAM PIN- 782120.

8:THE IN-CHARGE HEAD TEACHER
KHATOWAL IDRISH L.P. SCHOOL
VILLAGE- UTTAR KHATOWAL
P.S.- RUPAHIHAT
DISTRICT- NAGAON
ASSAM PIN- 782128

Advocate for the Petitioner : MR J C BORAH

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

09-01-2023

Heard Mr. J. C. Borah, learned counsel for the petitioners and Mr. B. Kaushik, learned Standing Counsel, Department of School Education (Elementary), Assam for the respondent Nos. 1, 2, 6 and 7. Also heard Mr. P. Nayak, learned Standing Counsel, SSA, Assam for the respondent No. 3.

Petitioner No. 2 is the President of petitioner No.1 L.P. School.

On approval of the State Government in the Elementary Education Department under letter No.PMA.04/2022/Pt/90 dated 01.04.2022, pursuant to the Government Office Memorandum No.ASE.481/2016/164 dated 03.08.2021 of the State Government in the Secondary Education Department, the Director of Elementary Education, Assam by its Notification No. EAA.110/Amal/2021/270 dated 30.04.2022 passed an order for amalgamation of 38 Nos. of Lower Primary Schools with 36 Nos. of Lower Primary Schools of Nagaon District under the 'Siksha Khetra' Scheme including Uttar Khatowal Indira Gandhi Lower Primary School having DISE Code 18100906420 with Khatowal Idris Lower Primary School having DISE Code 18100906419.

The petitioner's School being aggrieved with such amalgamation with Khatowal Idris Lower Primary School, filed a representation for review of such amalgamation and in the meeting of the concerned Block Level Committee (BLC) held on 29.06.2022 headed by its Chairman-cum-District Elementary Education Officer, Nagaon, the Block Elementary Education Officer of Laokhowa as Secretary, Principal of Singimari Higher Secondary School as well as the retired Headmaster of Kathpara High School as its Members decided that with regard to amalgamation of the petitioner's School with respondent No.8 School modification proposal is required to be submitted before the District Level Committee.

Though the matter was pending at that stage, the authorities in the Elementary Education Department on 13.10.2022 directed the in-charge Head Teacher of Uttar Khatowal Indira Gandhi L.P. School to hand over charge and all Books of Records to the Head Teacher of respondent No.8 School within 3 days observing that non-compliance of the said order issued by the Block Elementary Education Officer, Laokhowa, Nagaon may lead to disciplinary action.

Petitioners submitted that the Uttar Khatowal Indira Gandhi L.P. School has sufficient numbers of student, as such, there is no such requirement of amalgamation of the petitioner No.1 School with the respondent No.8 School.

Hence, this writ petition by the petitioners to set aside the said amalgamation order

issued by the Director of Elementary Education, Assam on 30.04.2022 amalgamating the petitioner No.1 School with respondent No. 8 School and further to set aside and quash the direction of the District Elementary Education Officer, Nagaon dated 21.09.2022 as well as direction issued by the Block Elementary Education Officer, Laokhowa, Nagaon to hand over charge and all Books of Records to the Head Teacher of respondent No.8 School within 3 days.

Heard the learned counsels for the parties.

Petitioners have annexed a copy of the Office Memorandum dated 03.08.2021 (Annexure-2 to this writ petition) of the State Government in the Secondary Education Department relating to 'Siksha Khetra' Scheme for amalgamation and merger of different Schools pursuant to which the petitioner No.1 School was amalgamated with the respondent No.8 School.

Clause 19 of said OM dated 03.08.2021 stipulates that – *the Director concern will issue necessary order for amalgamation. For any disputes arising out of the order, the aggrieved Institution/public may appeal before the Government in the Secondary or Elementary Education Department, as the case may be.*

Considering such provision in the OM dated 03.08.2021 pursuant to which the petitioners School was amalgamated with the respondent No.8 School by order dated 30.04.2022 issued by the Director of Elementary Education, Assam, therefore, this writ petition is disposed of with a direction that the petitioners shall file an appeal before the State Government in the Elementary Education Department for redressal of their grievances with regard to the impugned amalgamation order under No.EAA.110/Amal/20212/270 dated 30.04.2022, issued by the Director of Elementary Education, Assam along with a certified copy of this order on or before **18.01.2023** obtaining necessary acknowledgement from the said authority in that regard with a prayer to suspend/keep in abeyance the order of amalgamation dated 30.04.2022 issued by the Director of Elementary Education, Assam pertaining to the petitioner No.1 School with respondent No.8 School.

In the event of filing such appeal by the petitioners as directed above, the concerned appellate authority shall consider the appeal of the petitioners including their interim prayer and shall pass necessary order after hearing the petitioners on verification of relevant records of the relevant Block Level Committee as well as the District Level Committee, Elementary Education, District-Nagaon pertaining to amalgamation of the petitioner No.1 School with respondent No.8 School.

Enabling the petitioners to prefer their said appeal before the State Government in the Elementary Education Department with regard to the impugned amalgamation of their School with the respondent No.8 School in terms of the Notification of the Director of Elementary Education, Assam dated 30.04.2022, note above, the parties to this proceeding shall maintain status quo as on today, with regard to the amalgamation order dated 30.04.2022 of the petitioner No.1 School with the respondent No.8 School upto 18.01.2023.

With the above observation and direction this writ petition stands disposed of.

JUDGE

Comparing Assistant