

GAHC010006962015



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

Case No. : WP(C)/72/2015

DOLAPARA ME MADRASSA
MOIRABARI PASCHIM REP. BY ITS HEAD MASTER-CUM- SECRETARY, MD.
ZIADUL ISLAM S/O LT. HAMED ALI VILL- and P.O. and P.S. MOIRABARI
DIST. MORIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM and 7 ORS,
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION ELEMENTARY DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE ASSAM SARBA SIKSHA ABHIJAN MISSION

REP. BY THE MISSION DIRECTOR
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE DISTRICT SCRUTINY COMMITTEE
MORIGAON
REP. BY THE DEPUTY COMMISSIONER
MORIGAON.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
MORIGAON

ASSAM.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER

LAHARIGHAT DIST. MORIGAON
ASSAM.

7:MD. NASIRUDDIN AHMED
S/OLT. NURUDDIN AHMED R/O VILL- HAHCHARAGAON P.O. HAHCHARA
GAON
P.S. MORIGAON
DIST. MORIGAON- 782126
ASSAM. PRESENT HEAD MASTER OF DOLAPARA M.E. SCHOOL LOCATED
AT HAHCHARA GOAN SUBURI.

8:MD. YAKUB ALI
S/OLT. HAJI TAYAB ALI R/O VILL- HAHCHARAGAON P.O. HAHCHARA
P.S. MORIBARI DIST. MORIGAON- 782126
ASSAM

Advocate for the Petitioner : MS.A NEOG

Advocate for the Respondent : FOR CAVEATOR

Linked Case : WP(C)/1529/2015

DALAPARA ME MADRASSA
REPRESENTED BY ITS HEAD MASTER CUM SECRETARY
MD. MOJIBUR RAHMAN
VILL. HAHCHARA
P.O. HAHCHARA
DIST. MORIGAON
ASSAM
PIN 782126

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE COMMISSIONER and SECY. TO THE GOVT. OF
ASSAM
EDUCATION ELEMENTARY DEPTT.
ASSAM

DISPUR
GUWAHATI-6

2:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM

FINANCE DEPTT.

ASSAM

DISPUR

GUWAHATI-6

3:THE UNDER SECY. TO THE GOVT. OF ASSAM

EDUCATION ELEMENTARY DEPTT.

ASSAM

DISPUR

GUWAHATI-6

4:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM

KAHILIPARA

GUWAHATI-9

5:THE DIST. ELEMENTARY EDUCATION OFFICER

MORIGAON

DIST. MORIGAON

ASSAM.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER BEEO

LAHARIGHAT ELEMENTARY EDUCATION BLOCK

LAHARIGHAT

MORIGAON

ASSAM.

7:THE DEPUTY COMMISSIONER

MORIGAON

DIST. MORIGAON

ASSAM.

8:MD. ZIADUL ISLAM

HEAD MASTER CUM SECY.

DUPLICATE DOLAPARA ME MADRASSA

MOIRABARI PACHIM

VILL. MOIRABARI

P.O. MOIRABARI

DIST.MORIGAON

ASSAM

PIN 782126

9:MD. SAFIQL ISLAM

THE THEN PRESIDENT DOLAPARA ME MADRASSA MANAGING

COMMITTEE
VILL. MOIRABARI
P.O. MOIRABARI
DIST. MORIGAON
ASSAM.
10:MD. NASIRUDDIN AHMED

S/O LATE NURUDDIN AHMED
R/O VILL. HAHCHARA
P.O. HAHCHARA
DIST. MORIGAON
ASSAM
PIN 782126 PRESENT HEAD MASTER OF DUPLICATE DOLAPARA ME
MADRASSA LOCATED AT HAHCHARA GAON SUBURI

Advocate for : MR. E AHMED
Advocate for : MS.S K NARGISR-8and9 appearing for THE STATE OF ASSAM
AND 9 ORS

BEFORE

HON'BLE MR. JUSTICE UNNI KRISHNAN NAIR

05.12.2023

Heard Ms. S.K. Nargis, learned counsel for the petitioner in WP(C) 72/2015 and Mr. E. Ahmed, learned counsel for the petitioner in WP(C) 1529/2015. Also heard Mr. R. Mazumdar, learned Standing Counsel, Education Department, for the respondents.

2. These two writ petitions have been filed assailing the order dated 20.11.2014 passed by the Director of Elementary Education, Assam, in compliance of the order of this Court dated 20.11.2013 passed in WP(C) No.2586/2012, whereby the Director had decided that among the three schools in the same name of Dolapara M.E. Madrassa, the Dolapara M.E. Madrassa headed by Nasiruddin Ahmed, which is located at Hahchara Gaon, is the genuine school.

3. WP(C) 72/2015 has been filed by Dolapara M.E. Madrassa represented by its Head Master-cum-Secretary, Md. Ziadul Islam whereas WP(C) 1529/2015 has been filed by its Head Master-cum-Secretary, Md. Mojibur Rahman. In the earlier round of litigation, i.e. WP(C) 2586/2012, which led to the impugned order dated 20.11.2014 being passed by the Director of Elementary Education, this Court observed that three schools were involved with the same name with the claim of each one being the real one and such disputed questions of fact could not be gone into in the writ proceedings. Even after passing of the order dated 20.11.2014, the issue has not been resolved till date and each party has been agitating their respective claim.

4. On a perusal of the claim made by the present petitioners, it is apparent that the same would require examination of facts which are disputed by each of the parties and would require evidence to be adduced to come to a definite conclusion with regard to the claim of each of the parties. As such, I am of the view that the Writ Court is not the competent forum for deciding such admittedly disputed facts and the petitioners are to approach the competent court of civil jurisdiction for establishing their rights and claims.

5. Accordingly, the present writ petitions are disposed of requiring the parties to agitate their grievances before the Civil Court of competent jurisdiction. The petitioners in both the cases are granted 45 (forty five) days' time to institute appropriate proceedings before the Civil Court of competent jurisdiction and in the event such proceedings are instituted, learned Civil Court for the purpose of condonation of delay, if any, consider the pendency of the present proceedings before this Court as a ground. This Court passed an interim order on 19.01.2015 in WP(C) 72/2015, staying the impugned order dated 20.11.2014. The said interim order shall continue for a period of 45 (forty five) days and thereafter,

on institution of the proceedings, the parties would be at liberty to pray for such *ad-interim* order, which would be considered by the trial court on its merits.

With the above observations and directions, these two writ petitions stand disposed of.

JUDGE

Comparing Assistant