

GAHC010033482023



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

Case No. : WP(C)/877/2023

JAHAN UDDIN
SON OF MD. FAIZUR RAHMAN,
RESIDENT OF BORTHOL KACHARIGAON,
P.O.- DOLOIGAON, DIST.- MORIGAON,
ASSAM, PIN- 782126.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTARY) DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
MORIGAON
DISTRICT- MORIGAON
ASSAM

PIN- 782025.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
LAHARIGHAT EDUCATION BLOCK
P.O- LAHARIGHAT
DIST- MORIGAON

ASSAM
PIN- 782127.

5:THE HEAD MASTER OF BORTHAL KACHARIGAON L.P. SCHOOL
P.O.- DOLOIGAON
DISTRICT- MORIGAON

ASSAM
PIN- 782126

Advocate for the Petitioner : MR. B RAHMAN

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

17-03-2023

Heard Mr. B. Rahman, learned counsel for the petitioner and Mr. B. Kaushik, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 1 to 4.

It is stated by the petitioner that he is the President of the School Managing Committee (hereinafter referred to as SMC) of Borthal Kacharigaon Lower Primary School in the Laharighat Education Block of Marigaon District, a provincialised elementary School of the State and the District Elementary Education Officer, Marigaon, respondent No. 3 vide order No. 1532 dated 10.03.2018 approved the said SMC of Borthal Kacharigaon L.P. School to function till the new SMC is reconstituted.

The petitioner also stated that for smooth functioning of the said school and other ongoing development works, Mid-day Meal etc., on being satisfied, the DEEO, Morigaon vide order under Memo No. DEEO/MRG/SMC/Pry./177/Pt-I/2017/105-11 dated 09.01.2023 allowed the said SMC of L.P.School headed by the petitioner to function till the new SMC is reconstituted.

By order No. DEEO/MRG/SMC/Pry./177/Pt-I/2017 dated 06.02.2023, the DEEO, Morigaon, respondent No. 3 withdrawn the said SMC of Borthal Kacharigaon L.P. School under the Presidentship of the petitioner and constituted an Ad-hoc committee with one Md. Abul Kashem, Block Elementary Education Officer of Laharighat Education Block as the President and the Headmaster of said School

as the Member-cum-Secretary of the SMC of said Borthal Kacharigaon L.P. School with immediate effect for smooth functioning of the Mid-day Meal Scheme and other development works of it till the new SMC is reconstituted.

Being aggrieved with the same, the petitioner has preferred this writ petition.

The petitioner himself placed before the Court Rule 13(1)(i) of the Assam Right of Children to Free and Compulsory Education Rules, 2011 that relates to composition and functions of the SMC for the purpose of Section 21 which provides that – *"A School Management Committee shall be formed for each school. This would be permanent Body of which, the President and Members shall have a term of three years. However, they shall continue to function beyond three years till the new President and Members taken over. Efforts should be made to form the new Committee one month before the expiry of the term of the outgoing Committee"*.

In the present case, it is seen that the DEEO, Morigaon, respondent No. 3 by its order dated 09.01.2023 allowed the SMC of said Borthal Kacharigaon L.P. School under the Presidentship of the petitioner to function till the new SMC is reconstituted pertaining to the said school specifying that the said SMC was approved by the DEEO, Morigaon on 10.03.2018.

As per the provisions of Rule 13(1) of said 2011 Rules, noted above, it can be seen that the term of SMC of said school is only for a period of three years and the said SMC of Borthal Kacharigaon L.P. School under the Presidentship of the petitioner that was approved by the DEEO, Morigaon on 10.03.2018 has already spent its force on 10.03.2021.

Since 10.03.2021 the said SMC of Borthal Kacharigaon L.P. School is no longer in force as its term was not extended during its force, the DEEO, Morigaon by its order dated 09.01.2023 could not have extended the term of the SMC of said school under the Presidentship of the petitioner as there is no such provision for extension of the SMC headed by the petitioner pertaining to the said school prior to 10.03.2021.

It is well settled that extension can be given during the relevant order remains in force and in the case in hand, during the lifetime of the committee or the association, the petitioner failed to place anything before the Court that the SMC of said Borthal Kacharigaon L.P. School that was under his Presidentship was extended on or before 09.03.2021 while the said SMC headed by him was in force upto 09.03.2021 from the date of coming of the said society in force, i.e., 10.03.2018.

In view of the above, the order No. DEEO/MRG/SMC/Pry./177/Pt-I/2017 dated 06.02.2023

issued by the District Elementary Education Officer, Morigaon, does not call for any interference. As such, this writ petition being devoid of merit, stands dismissed.

JUDGE

Comparing Assistant