

GAHC010033762017



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

Case No. : WP(C)/4725/2017

MOSFIARA BEGUM
W/O MD. ABDUL WAHID, H/O HOUSE NO. 6, BYE LANE NO. 4, OPPOSITE
HITESWAR SAIKIA COLLEGE, SIX MILE, PANJABARI ROAD, DIST. KAMRUP
METRO, ASSAM

VERSUS

THE STATE OF ASSAM and 2 ORS.
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION SECONDARY DEPTT., DISPUR, GUWAHATI-781006

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

3:THE INSPECTOR OF SCHOOLS

KAMRUP DISTRICT CIRCLE
KAMRUP RURAL DISTRICT
AMINGAON
GUWAHATI-78103

Advocate for the Petitioner : MR.R SALOI

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 26.04.2023

None appears on call for the petitioner. However, Mr. R. Mazumdar, learned standing counsel for the Secondary Education Department is present.

2. The case of the petitioner, in brief, is that she was holding the charge of Principal of Bezera Higher Secondary School under the then Kamrup (Rural) District since 24.01.2012. For an incident which took place in the school in the month of May, 2015, the petitioner was placed under suspension and a departmental proceeding was initiated against her on 14th August, 2015, including the charge of her incompetency to administer the school. In due course, the petitioner was reinstated in service as subject teacher. Upon receipt of the enquiry report, the Director of Secondary Education, Assam (respondent no.2), who was the disciplinary authority, by an order dated 06.01.2017 exonerated the petitioner of all the charges including the charge of her incompetency to administer the school. However, the petitioner is aggrieved by a part of the report of the enquiry officer wherein he had made a remark regarding "administrative incapability" of the petitioner. Accordingly, the present writ petition has been filed under Article 226 of the Constitution of India for expunging the remarks of the enquiry officer.

3. The learned standing counsel for the Secondary Education Department has submitted that on 03.08.2017, when the petitioner had sworn the affidavit in support of the writ petition, she was aged about 56 years. It is submitted that, for a subject teacher, the age of superannuation is 60 years. Hence, it is submitted that there is every likelihood that by passage of time, the petitioner has already

superannuated and therefore, it is submitted that the observation made in the enquiry report would not cause any prejudice to the petitioner. It is also submitted that in the order of the disciplinary authority dated 06.01.2017, the said authority did not approve of the remark made by the enquiry officer. Hence, it is submitted that as the purported adverse remark by the enquiry officer against the petitioner does not find place in the order of the disciplinary authority, there is no way that the said remark may prejudice the petitioner in any manner.

4. In view of the nature of submission made by learned standing counsel for the Secondary Education Department, the Court is of the considered opinion that as there is every likelihood that the petitioner has superannuated in the meantime and having regard to the stand taken by the learned standing counsel for the Secondary Education Department that the observations made in the enquiry report is not likely to prejudice the petitioner as the same does not form part of the order of the disciplinary authority, this Court is inclined to close this writ petition with an observation that the remark made by the enquiry officer in his report dated 29.03.2016 to the effect that "however, upon enquiry, it has come to light that there was great animosity against the staff which to a great extent was due to the administrative incapability on the part of Smti. Mosfiara Begum" shall not prejudice the petitioner in any manner.

5. With the aforesaid observation, this writ petition stands closed.

JUDGE

Comparing Assistant