

GAHC010033842023



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

Case No. : WP(C)/942/2023

NUR BEGUM AND 5 ORS.
S/O- GAUSAL ALOM, VILL- SIMLABARI, P.O. SIMLABARI, P.S. LAKHIPUR,
DIST.- GOALPARA, ASSAM

2: MAFIDA KHATUN
S/O- LT. MOFIAL HOQUE
VILL- SIMLABARI
P.O. SIMLABARI
P.S. LAKHIPUR
DIST.- GOALPARA
ASSAM

3: ZAKIR HUSSAIN
S/O- GAUSAL ALOM
VILL- SIMLABARI
P.O. SIMLABARI
P.S. LAKHIPUR
DIST.- GOALPARA
ASSAM

4: HITESWAR BARMAN
S/O- BHUPEN BARMAN
VILL- SIMLABARI
P.O. SIMLABARI
P.S. LAKHIPUR
DIST.- GOALPARA
ASSAM

5: SITA BASFOR
S/O- RAJESK BASFOR
VILL- SIMLABARI
P.O. SIMLABARI
P.S. LAKHIPUR
DIST.- GOALPARA

ASSAM

6: PHULAMATI BARMAN
W/O- NISHI BARMAN
VILL- GAROJAN
P.O. SIMLABARI
P.S. LAKHIPUR
DIST.- GOALPARA
ASSA

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, ELEMENTARY
EDUCATION, DISPUR, GHY

2:DIRECTOR OF ELEMENTARY EDUCATION
GOVT. OF ASSAM
KAHILIPARA
GHY-781021

3:DY. COMMISSIONER
GOALPARA

4:DISTRICT ELEMENTARY EDUCATION OFFICER
LAKHIPUR
GOALPARA
ASSAM

5:BLOCK ELEMENTARY EDUCATION OFFICER
LAKHIPUR
GOALPARA
ASSAM

6:SIMLABARI M.E. SCHOOL MANAGING COMMITTEE
REP. BY ITS PRESIDENT

7:MONIR HUSSAIN
S/O- MOHIYAL SHEIKH
VILL- GAROJAN
P.O. SIMLABARI
P.S. LAKHIPUR
DIST.- GOALPARA
ASSAM

8:DEBANANDE BORO
BEO
HEAD MASTER

SIMLABARI M.E. SCHOOL
VILL- GAROJAN
P.O. SIMLABARI
P.S. LAKHIPUR
DIST.- GOALPARA
ASSA

Advocate for the Petitioner : MR. D P CHALIHA

Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

08-05-2023

Heard Mr. D. P. Chaliha, learned Senior Counsel assisted by Ms. M. Roy, learned counsel for the petitioners as well as Mr. B. Kaushik, learned Standing Counsel, Department of School (Elementary) Education, for the respondent Nos. 1 to 4 and 5. Also heard Ms. D. Das Barman, learned Government Advocate, Assam for the respondent No.3.

2) Matter pertains to constitution of new School Managing Committee (SMC) of Simlabari M.E. School in the Lakhipur Education Block of District-Goalpara, a provincialised Upper Primary School of the State.

3) It is alleged that the present SMC of said Simlabari M.E. School headed by Manir Hussain as its President along with the Headmaster of the School failed to manage the said M.E. School and there is requirement of replacement of the President of the present SMC of said M.E. School, respondent No.7 and it should be replaced by one Nur Begum, who happens to be the petitioner No.1.

4) It is seen that one Zakir Hussain, a member of the present SMC of said M.E. School filed a representation before the Deputy Commissioner on 29.07.2022 as well as before the District Elementary Education Officer, Goalpara on 29.07.2022 itself,

which were duly received by those authorities, informing those authorities about the illegalities committed by the present President of the SMC, respondent No.7 along with Headmaster in-charge of the said M.E. School, respondent No.8, who also happens to be the Block Elementary Education Officer of Lakhipur Education Block of district Goalpara.

5) Rule 5 of the Assam Right of Children to Free and Compulsory Education Rules 2011 framed under the Right of Children to Free and Compulsory Education Act, 2009 relates to School Management Committee and Rule 13 of said 2011 Rules relates to composition and functions of the School Management Committee for the purposes of Section 21 of the said 2009 Act.

6) Rule 13 (3) of the said 2011 Rules relates to selection and election of the President and Member of School Management Committee, whereas, Rule 13 (5) of said 2011 Rules relates to removal of President/Members of SMC and filling up of vacancies.

7) Further, Rule 13 (6) of said 2011 Rules relates to dissolution of the SMC.

8) As per the provisions of Rule 13 (1) (i), the term of the President as well as Members of a School Managing Committee is for a period of three years.

9) As stated that the last SMC of said Simlabari M.E. School was constituted and approved by the District Elementary Education Officer, Goalpara in February, 2021.

10) After hearing the learned counsels for the parties and considering the entire aspect of the matter, this writ petition is disposed of at the motion stage itself directing the petitioners to submit a fresh representation along with the certified copy of this order and a copy of this writ petition including the Annexures appended thereto before the District Elementary Education Officer, Goalpara on or before **18.05.2023** obtaining necessary acknowledgment from the said authority in that regard.

11) In the event of filing of such representation by the petitioners within the time so specified and as directed above, the District Elementary Education Officer, Goalpara

after obtaining necessary report pertaining to mismanagement of the SMC of said Simlabari M.E. School shall do the needful and shall dispose of the representation of the petitioners in accordance with law intimating them about the outcome of their said representation.

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

JUDGE

Comparing Assistant