

GAHC010041212023



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

Case No. : WP(C)/1120/2023

GOPAL BORA L.P. SCHOOL
TEKELA BORUA VILLAGE,
P.O.- KHANGIA, P.S.- DERGAON,
PIN- 785614, DISTRICT- GOLAGHAT, ASSAM, REPRESENTED BY ITS
PRESIDENT OF THE MANAGING COMMITTEE, GOPAL BORA L.P. SCHOOL,
SRI RAJIB DUTTA, AGED ABOUT 35 YEARS, S/O- NAHAI DUTTA, RESIDENT
OF TEKELA BORUA VILLAGE, P.O.- KHANGIA, P.S.- DERGAON, PIN- 785614,
DISTRICT- GOLAGHAT, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
ELEMENTARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI- 6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPARTMENT
DISPUR
GUWAHATI- 6.

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

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
GOLAGHAT
DISTRICT- GOLAGHAT
ASSAM
PIN-

5:HALLOW GAON JB SCHOOL

REPRESENTED BY ITS HEADMASTER
HALLOW GAON
P.O.- KHANGIA
P.S.- DERGAON
PIN- 785614
DIST.- GOLAGHAT
ASSAM

Advocate for the Petitioner : MR. P MAHANTA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
ORDER

21-03-2023

Heard Mr. P. Mahanta, learned counsel for the petitioner and Mr. P. K. Bora, learned Standing Counsel, Department of School Education for the respondent Nos. 1, 3 and 4. Also heard Mr. SMT Chistie, learned Standing Counsel, Department of School (Secondary) Education for the respondent No.2.

In pursuance of the Office Memorandum No.ASE.481/ 2016/164 dated 03.08.2021 of the Secondary Education Department pertaining to the 'Siksha Khetra', a Scheme for Amalgamation and Merger of different Schools and on the basis of subsequent approval of the Government of Assam in the Elementary Education Department, vide letter No. PMA.04/2022/404 dated 03.02.2022, the Director of Elementary Education, Assam by Notification No.EAA.84/Amal/2021/162 dated 21.03.2022 amalgamated Gopal Bora Lower Primary School having DISE Code 18180300602 with Hallow Gaon Junior Basic School having DISE Code 18180310304.

Petitioner School i.e., Gopal Bora Lower Primary School is at Tekela Borua

Village, Khangia, Dergaon in the District of Golaghat, whereas, the respondent No.5 Hollow Gaon Junior Basic School is at village Hallow Gaon, Khangia under Dergaon Police Station in the District of Golaghat.

Petitioner School is represented by President of its School Managing Committee.

Petitioner contended that in the petitioner's School the enrollment is more than the enrollment as that of the respondent No.5 School i.e., Hollow Gaon Junior Basic School and instead of amalgamating the respondent No.5 School with the petitioner School, the respondent authorities amalgamated the petitioner School with the respondent No.5 School.

In that regard, the petitioner has placed a copy of the Office Memorandum of the State Government in the Secondary Education Department under No.ASE.481/2016/17 dated 22.09.2016 relating to the Scheme of Siksha Khetra.

It is to be noted herein that the Scheme of Siksha Khetra earlier notified vide notification dated 22.09.2016 was last amended by another Office Memorandum vide No.ASE.481/2016/164 dated 03.08.2021.

Mr. P. K. Bora as well as Mr. SMT Chistie, learned Standing Counsels, Department of School Education representing the respondent Nos. 1, 3 and 4; 2 respectively, submitted that considering the fact that the management of some of the Schools from different parts of the State had submitted petitions to reconsider the order of amalgamation/merger citing various issues like enrollments, infrastructures and distances etc., the Department of School Education by order under No.E2257541/1 dated 10.09.2022 constituted an Amalgamation/Merger Re-verification Committee in the public interest.

Both the departmental counsels also submitted that the re-verification is

required to re-verify all the claims and petitions received from different Schools that are specifically marked to the Committee by the senior most Secretary and the said Committee shall re-examine the matter very thoroughly in compliance to the provisions in the Siksha Khetra Office Memorandum co-ordinating with the senior most Secretary of the Department in respect of the claims and petitions.

As per the Order dated 10.09.2022, the constituted Re-verification Committee at first is required to prepare and finalise a check list with the approval of the senior most Secretary, thereafter, the Committee have to furnish its findings after fully satisfying itself in respect of acceptance or rejection of the claims and petitions by filling up the check list against each claims and petitions with the Committees observation to the senior most Secretary of the Department for final decision.

Both the OM No.ASE.481/2016/17 dated 22.09.2016 as well as the OM No.ASE.481/2016/164 dated 03.08.2021 with regard to Siksha Khetra Scheme for amalgamation and merger of different Schools, which is presently in force at Clause 19 provides that – *for any disputes arising out of the order, the aggrieved Institution/public may appeal before the Government in the Secondary/Elementary Education Department, as the case may be.*

It is submitted by the petitioner that earlier on 12.07.2022 a representation was submitted before the Director of Elementary Education, Assam being aggrieved with amalgamation of the petitioner School with the respondent No.5 School vide impugned order dated 21.03.2022, which is yet to be disposed of.

After hearing the learned counsels for the parties and considering the entire aspect of the matter and in view of constitution of Amalgamation/Merger Re-

verification Committee, noted above, the petitioner is directed to prefer a fresh appeal before the State Government in the Elementary Education Department stating its grievances as well as claims with regard to the impugned amalgamation order under No.EAA.84/Amal/2021/162 dated 21.03.2022, amalgamating the petitioner School with the respondent No. 5 School issued by the Director of Elementary Education, Assam along with a certified copy of this order including the copy of representation dated 12.07.2022 on or before **06.04.2023** obtaining necessary acknowledgement from the said authority in that regard.

In the event of filing such appeal by the petitioner as directed above, the concerned appellate authority shall consider the appeal of the petitioner and shall pass necessary order, after giving an opportunity of hearing to the petitioner School as well as respondent No.5 School, intimating the petitioner about the outcome of its appeal.

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

JUDGE

Comparing Assistant