

GAHC010042832019



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

Case No. : WP(C)/1443/2019

NO. 1 BARDOULGURI LP SCHOOL
REP. BY THE SCHOOL MANAGING COMMITTEE THROUGH ITS PRESIDENT
MD. YAZUL HOQUE, S/O- LT YUNUSH ALI, VILL- PAKA BANGIPARA, P.O.
BARDOULGURI, DIST- DARRANG, PIN- 784145

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, SECONDARY
EDUCATION DEPTT., DISPUR, GHY-6

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPTT.
DISPUR GHY-6

3:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPTT.
DISPUR GHY-6

4:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA GHY-19

5:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA GHY-19

6:THE INSPECTOR OF SCHOOLS
DIST- DARRANG
PIN- 784145

7:BARDOULGURI M.E.SCHOOL
REPRESENTED BY HEAD MASTER
VILL AND P.O. BARDOULGURI

DARRANG PIN- 78414

Advocate for the Petitioner : MR. S DUTTA
Advocate for the Respondent : SC, SEC. EDU.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

25-01-2023

Heard Mr. S. Dutta, learned counsel for the petitioner and Mr. U. Sarma, learned Standing counsel, Department of School Education (Secondary), Assam for the respondent Nos. 1, 2, 4 & 6. Also heard Ms. N. Phukan, learned Standing counsel, Department of School Education (Elementary), Assam for the respondent Nos. 3 & 5.

2. The State Government in the Secondary Education Department vide No. ASE 1395/2016/Pt-I/100 dated 27.02.2018 issued an order of amalgamation of No. 1 Bardoulguri Lower Primary School having DISE No. 18080111701 and Bardoulguri M.E. School having DISE No. 18080111704 with Bardoulguri High School having DISE No. 18080111707, all of District-Darrang with the approval of the Finance (EC-III) Department vide No. 526/2017 dated 25.05.2017 under the "Siksha Khetra Scheme" for amalgamation of provincialised Schools of the State in pursuance of the Government's Office Memorandum No. ASE 481/2016/17 dated 22.09.2016.

3. While the petitioner was the President of the School Managing Committee (SMC) of said No. 1 Bardoulguri L.P. School, District-Darrang, he filed this writ petition on 26.02.2019 challenging the said order of amalgamation dated 27.02.2018, noted above.

4. Though notice in this case was issued on 06.03.2019, the Court did not pass any order restraining any such amalgamation of No. 1 Bardoulguri L.P. School with Bardoulguri High School in terms of the order dated 27.02.2018 issued by the Government of Assam in the Secondary Education Department.

5. As per the provisions of Rule (13)(1)(i) of the Assam Right of Children to Free and Compulsory Education Rules, 2011, the term of a President of the School Managing Committee is for a period of 3 (three) years.

6. The petitioner did not state as to when he became the President of said No. 1 Bardoulguri L.P. School, District-Darrang and as to whether he is still continuing as a President of the SMC of said

school or not.

7. Moreover, at Clause 7 of the said Government's Office Memorandum dated 22.09.2016 relating to "Siksha Khetra Scheme" for amalgamation or merger of provincialised Schools of the State, it is provided that "for any dispute arising out of the order of amalgamation or merger, the aggrieved Institution/public may prefer an appeal before the Government in the Department of Secondary or Elementary Education, as the case may be".

8. The Hon'ble Supreme Court in the case of *Commissioner of Income Tax and another vs. Chhabil Dass Agarwal* reported in (2014) 1 SCC 603 held that "when a statutory forum is created by law for redressal of grievances, writ petition should not be entertained ignoring said statutory provision".

9. It is to be noted herein that neither the teaching & non-teaching staff nor any guardians of the students of said No. 1 Bardoulguri L.P. School approached this Court against the said order of amalgamation dated 27.01.2018 issued by the Government of Assam in the Secondary Education Department amalgamating said No. 1 Bardoulguri L.P. School with Bardoulguri High School of Darrang District.

10. Considering the entire aspect of the matter, the Court is of the opinion that it is not a case to interfere with the impugned order of amalgamation issued under No. ASE 1395/2016/Pt-I/100 dated 27.02.2018 amalgamating the said No. 1 Bardoulguri L.P. School with Bardoulguri High School of Darrang District in exercise of the power conferred under Article 226 of the Constitution of India.

11. In view of the above, this writ petition being devoid of merit, stands dismissed.

12. However, as the said Office Memorandum dated 22.09.2016 specifically provides for an appeal before the appropriate forum regarding the dispute of any such order of amalgamation or merger, the petitioner may approach the appropriate appellate forum along with a certified copy of this order for redressal of his grievances, if so advised.

JUDGE

Comparing Assistant