

GAHC010066852018



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

Case No. : WP(C)/2138/2018

ISLAM UDDIN BARBHUIYA
S/O- LT MONIR UDDIN BARBHUIYA, VILL- DUDHPATIL PART-IV
(KHARILPAR), P.O. HATICHERRA-7, PIN-788002, DIST- CACHAR, ASSAM
(PRESIDENT OF THE S.M.C. OF 1575 NO. DUDHPATIL KHARILPAR L.P.
SCHOOL)

VERSUS

THE STATE OF ASSAM AND 5 ORS.
TO BE REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM, ELEMENTARY EDUCATION DEPTT., DISPUR, GHY-6

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

3:THE DISTRICT OF ELEMENTARY EDUCATION OFFICER
CACHAR
SILCHAR
DIST- CACHAR
ASSAM
PIN-788001

4:THE DEPUTY INSPECTOR OF SCHOOLS
CACHAR
SILCHAR
DIST- CACHAR
ASSAM
PIN-788001

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

UDARBAND EDUCATION BLOCK
UDARBAND
DIST- CACHAR
ASSAM
PIN-788001

6:59 NO. KHARILPAR LP SCHOOL
REP. BY THE SECRETARY OF THE SCHOOL MANAGING COMMITTEE
VILL- DUDHPATIL PART-IV (KHARILPAR)
P.O. HATICHERRA-7
PIN-788002
DIST- CACHAR
ASSA

Advocate for the Petitioner : MR. N H BARBHUIYA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

18-01-2023

Heard Mr. N.H. Barbhuiya, learned counsel for the petitioner and Ms. N. Phukan, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 to 5. Also heard Mr. M. Sarma, learned counsel for the respondent No. 6.

Pursuant to the Office Memorandum No. PMA.717/2016/214 dated 31.07.2017 that relates to "Siksha Khetra", a Scheme for amalgamation and merger of different schools of the State Government in the Education Department, the State Government in the Elementary Education Department vide Notification No. PMA.685/2017/457 dated 19.12.2017 with the approval of the authorities in the Finance Department of the State notified the merger of 1575 No. Dudhpatil Kharilpar L.P. School of the UdhARBOND Education Block, District-Cachar with 59 No. Kharilpar Lower Primary School of the same Education Block, both provincialised L.P. Schools of the State, specifying that the 59 No. Kharilpar L.P. School as the Base school.

Being aggrieved with the amalgamation of said 1575 No. Dudhpatil Kharilpar L.P. School with 59 No. Kharilpar L.P. School in terms of the said notification dated 19.12.2017, noted above, the

petitioner has preferred this writ petition.

This writ petition was filed on 03.04.2018 while the petitioner was the President of the School Managing Committee (SMC) of said 1575 No. Dudhpatil Kharilpar L.P. School, District-Cachar.

Notice in this case was issued on 09.04.2018.

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 three years .

The petitioner has failed to show since when he served as the President of the SMC of said 1575 No. Dudhpatil Kharilpar L.P. School, District-Cachar or that he has been reelected as the President of the said L.P. School. As such, the tenure of the petitioner as President of said 1575 No. Dudhpatil Kharilpar L.P. School has already expired.

Pursuant to the order dated 09.01.2023, Ms. Phukan, learned Standing counsel, Department of School (Elementary) Education, Assam placed before the Court copies of the relevant written information of the Director of Elementary Education, Assam as well as that of the District Elementary Education Officer, Cachar, Silchar and the Block Elementary Education Officer, Udharbond, Cachar.

The relevant written information placed before the Court reveals that both the schools are on two different sides of the road opposite to each other. Said written information also specifies that out of 48 Nos. of students, 46 Nos. of students of said 1575 No. Dudhpatil Kharilpar L.P. School and 3 Nos. of Teachers of the said school have already joined the base school namely, 59 No. Kharilpar L.P. School.

It is also specified that except 2 Nos. of students of said 1575 No. Dudhpatil Kharilpar L.P. School and of some its assets including its movable and immovable are yet to be transferred to the said base school, i.e., 59 No. Kharilpar L.P. School.

The Office Memorandum dated 31.07.2017 pertaining to the Siksha Khetra Scheme, noted above, annexed to this writ petition as annexure-1 at Clause 6 clearly reveals 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".

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".

Considering the entire aspect of the matter and the written information placed before the Court by the respondent authorities, the Court is not inclined to interfere with the impugned order of amalgamation issued under No. PMA.685/2017/457 dated 19.12.2017 amalgamating the 1575 No. Dudhpatil Kharilpar L.P. School with the base school 59 No. Kharilpar L.P. School.

However, the petitioner may approach the appropriate appellate forum along with the certified copy of this order for redressal of his grievances, if so advised.

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

Copy of the written information placed before the Court by Ms. Phukan, Department of School (Elementary) Education, Assam, noted above, be kept as a part of the record.

JUDGE

Comparing Assistant