

GAHC010069422023



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

Case No. : I.A.(Civil)/874/2023

THE HEADMASTER OF ADARSHA VIDYAPEETH,
MAZDIA, DIST. BARPETA, ASSAM, PIN 781305.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
EDUCATION (SECONDARY) DEPT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DEPUTY COMMISSIONER

BARPETA
DIST. BARPETA
ASSAM.

4:THE INSPECTOR OF SCHOOLS

BARPETA DISTRICT CIRCLE
BARPETA.

5:THE I/C INSPECTOR OF SCHOOLS

BARPETA DISTRICT CIRCLE
BARPETA.

6:MD. NUR SHAHED ALI

S/O. LT. ABDUL GONI
VILL. MAZDIA
P.O. PASCHIM MAZDIA
DIST. BARPETA
ASSAM
PIN-781305.

7:MD. ABDUR RAHMAN

S/O. LT. HAREZ ALI
VILL. MAZDIA
P.O. PASCHIM MAZDIA
DIST. BARPETA
ASSAM

Advocate for the Petitioner : MR N SARMA

Advocate for the Respondent : SC, SEC. EDU.

Linked Case : I.A.(Civil)/487/2023

MD. NUR SHAHED ALI

S/O. LT. ABDUL GONI
VILL. MAZDIA
P.O. PASCHIM MAZDIA
DIST. BARPETA
ASSAM
PIN-781305.

VERSUS

ABDUR RAHMAN AND 6 ORS

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S/O. LT. HAREZ ALI
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DIST. BARPETA
ASSAM.

2:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
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BARPETA.
7:THE HEADMASTER OF ADARSHA VIDYAPEETH

MAZDIA
DIST. BARPETA
ASSAM.

Advocate for : MR J H SAIKIA
Advocate for : SC
SEC. EDU. appearing for ABDUR RAHMAN AND 6 ORS

Linked Case : WP(C)/342/2023

ABDUR RAHMAN
S/O. LT. HAREZ ALI
VILL. MAZDIA
P.O. PASCHIM MAZDIA
DIST. BARPETA
ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
EDUCATION (SECONDARY) DEPT.
DISPUR
GUWAHATI-06.

2:THE DIRECTOR OF SECONDARY EDUCATION

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6:THE HEADMASTER OF ADARSHA VIDYAPEETH

MAZDIA
DIST. BARPETA
ASSAM.
7:MD. NUR SHAHED ALI

S/O. LT. ABDUL GONI
VILL. MAZDIA
P.O. PASCHIM MAZDIA
DIST. BARPETA
ASSAM
PIN-781305.

Advocate for : MR S HOQUE
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 6 ORS.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

28/03/2023

Heard Mr. N Sarma, learned counsel for the applicant, Headmaster of Adarsha Vidyapeeth, Mazdia, District-Barpeta, who is also the respondent No. 6 in the connected WP(C) No. 342/2023.

Also heard Mr. S M T Chistie, learned Standing counsel, Department of School (Secondary) Education for the opposite party/respondent Nos. 1 & 2; Ms. D Das Barman, learned Government

Advocate, Assam for the opposite party/respondent Nos. 3, 4 & 5 and Mr. J H Saikia, learned counsel for the opposite party/respondent No. 7.

One Md. Abdur Rahman, who was recommended for the post of President of the School Management and Development Committee (SMDC) of the said Adarsha Vidyapeeth, Mazdia, District-Barpeta was not considered for the said post of President and the Deputy Commissioner, Barpeta with due approval of the concerned Guardian Minister nominated the respondent No. 7 of WP(C) No. 342/2023, as the President of the SMDC of the said Adarsha Vidyapeeth, Mazdia.

Said Md. Abdur Rahman preferred the connected WP(C) No. 342/2023 challenging the order of the Inspector of Schools, Barpeta District Circle, Barpeta dated 09.01.2023 nominating the respondent No. 7 as the President of the SMDC of said Adarsha Vidyapeeth, Mazdia.

The Court while issuing Rule to the respondents on 23.01.2023 passed an order directing the parties therein to maintain status quo as on 23.01.2023 until further order, which is still in force.

The respondent No. 6 Headmaster of Adarsha Vidyapeeth, Mazdia, the applicant in the present application submitted that after the order of the Inspector of Schools, Barpeta District Circle, Barpeta dated 09.01.2023 nominating Md. Nur Sahed Ali, respondent No. 7 as the President of the SMDC of the said Adarsha Vidyapeeth, before the said nominated President could conduct the first meeting under his Presidentship, the order dated 23.01.2023 was passed in the connected WP(C) No. 342/2023 and now in absence of the SMDC of said Adarsha Vidyapeeth, said President is not in a position to withdraw any such amount from the Bank Accounts of the school maintained with the Canara Bank, Barpeta Branch bearing A/c No. 110011897371 and the Union Bank of India, Mazdia Branch bearing A/c No. 468102010017255 so as to transfer the Recurring and Non-Recurring Grants sanctioned by the State Government under different Schemes of the State including School Uniforms etc.

The Headmaster of said Adarsha Vidyapeeth in this application also submitted that the sanctioned amounts that are lying in those two Bank Accounts of the said school granted by the State Government for all round development of the said school and for its students, if remain unutilized before 31.03.2023, it will be lapsed as the Headmaster of the said school will not able to submit any utilization certificate with regard to the amount that are lying in those two Bank Accounts of said Adarsha Vidyapeeth.

The applicant further submitted that he received messages from the higher authority to utilize

the unspent amount at the earliest so that utilization certificate can be submitted by 31.03.2023.

In view of the above, the Headmaster of said Adarsha Vidyapeeth, Mazdia, District-Barpeta has filed this Interlocutory Application, enabling him to withdraw the funds lying in those two Bank Accounts, namely, Canara Bank, Barpeta Branch and Union Bank of India, Mazdia Branch in the name of the said Adarsha Vidyapeeth along with other authorized signatory for the better use of said fund for the said school and its students.

Learned counsels for the opposite parties have no objection to the prayer of the applicant, Headmaster of Adarsha Vidyapeeth, Mazdia, District-Barpeta.

However, Mr. S M T Chistie, learned Standing counsel, Department of School (Secondary) Education clarified that in absence of the President of SMDC of the said Adarsha Vidyapeeth in pursuance of the order passed by the Court on 23.01.2023 in the connected WP(C) No. 342/2023, till a regular President of the SMDC of the said Vidyapeeth takes over the management of the said school, the Inspector of Schools, Barpeta District Circle, Barpeta should be the authorized together with the Headmaster of the said Adarsha Vidyapeeth for withdrawal of such fund lying with those two Bank Account Nos. 110011897371 and 468102010017255, noted above with regard to the grants and sanctioned by the State Government in favour of said Adarsha Vidyapeeth for the purpose of development of the said school and its students.

Submission of Mr. Chistie, learned Standing counsel, Department of School (Secondary) Education has force.

After hearing the learned counsels for the parties and considering the entire aspects of the matter, it is hereby directed that the Headmaster of said Adarsha Vidyapeeth, Mazdia, District-Barpeta along with the Inspector of Schools, Barpeta District Circle, Barpeta, in the absence of the regular Inspector of Schools, Barpeta District Circle, Barpeta, then the in-charge Inspector of Schools, Barpeta District Circle, Barpeta are hereby allowed to withdraw the amount as sanctioned by the State Government in favour of said Adarsha Vidyapeeth from those two Bank A/c No. 110011897371 with Canara Bank, Barpeta Branch and No. 468102010017255 with Union Bank of India, Mazdia Branch, noted above, having joint signatures of both of the authorities.

However, it is made clear that both the authorities, noted above, shall be personally responsible and liable for any such misuse of such public fund granted and sanctioned by the State Government authorities only for the purpose of the development of said Adarsha Vidyapeeth and for

its students.

Moreover, withdrawal of such fund from the Bank Account of the school, noted above, by the Headmaster of said Adarsha Vidyapeeth and the Inspector of Schools, Barpeta District Circle, Barpeta or in-charge of Inspector of Schools, Barpeta District Circle, Barpeta, as the case may be, and utilization of such fund for any other purpose other than the development of the said school and for its students is strictly prohibited.

All transactions shall be made through the Account Payee Cheques with proper name and address by the Headmaster of the said Adarsha Vidyapeeth, Mazdia, District-Barpeta along with the Inspector of Schools, Barpeta District Circle, Barpeta or the in-charge Inspector of Schools, Barpeta District Circle, Barpeta as the case may be and they shall keep proper written and electronic record towards such utilization of Government sanctioned fund allotted for the benefit of the said school and its students.

The Headmaster of Adarsha Vidyapeeth, Mazdia, District-Barpeta i.e., the applicant shall submit the certified copy of this order before the Branch Managers of both the Banks of Canara Bank, Barpeta Branch and Union Bank of India, Mazdia Branch as well as the Treasury Officer, Barpeta Treasury.

JUDGE

Comparing Assistant