

GAHC010085532023



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

Case No. : I.A.(Civil)/1131/2023

SILCHAR COLLEGIATE SCHOOL TEACHERS AND STAFF ASSOCIATION
A REGISTERED ORGANIZATION HAVING ITS OFFICE AT R.K. MISSION
ROAD, P.O. AND P.S. SILCHAR, DISTRICT CACHAR, ASSAM, REPRESENTED
BY ITS PRESIDENT SMT. MAMTA NATH.

VERSUS

RAJIB KUMAR DUTTA AND 3 ORS.
SON OF- LATE RABINDRA KUMAR DUTTA, RESIDENT OF- RANGIRKHARI
TARANI ROAD, SILCHAR- 78005, DISTRICT- CACHAR, ASSAM.

2:THE STATE OF ASSAM

REPRESENTED BY THE DIRECTOR OF SECONDARY EDUCATION
KAHILIPARA
GUWAHATI
ASSAM.

3:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR.

4:SMTI. HIMASREE DEKA
ACS
EXECUTIVE MAGISTRATE
CACHAR
SILCHAR

Advocate for the Petitioner : MR. M NATH

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/1375/2023

RAJIB KUMAR DUTTA
SON OF- LATE RABINDRA KUMAR DUTTA

RESIDENT OF- RANGIRKHARI TARANI ROAD

SILCHAR- 78005

DISTRICT- CACHAR
ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE DIRECTOR OF SECONDARY EDUCATION

KAHILIPARA
GUWAHATI
ASSAM.

2:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR.

3:SMTI. HIMASREE DEKA
ACS
EXECUTIVE MAGISTRATE
CACHAR

SILCHAR.

Advocate for : MS P CHAKRABORTY
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 2 ORS

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

15.05.2023

Heard Mr. M. Nath, learned Sr. Counsel assisted by Mr. A. Bhattacharjee, learned counsel for the applicant. Also heard Ms. P. Chakraborty, learned counsel for the respondent; Ms. D.D Barman, learned Addl. Senior Government Advocate and Mr. SMT Chistie, learned Standing Counsel, Secondary Education for the State.

3. This interlocutory application has been filed by the applicant who claimed to be the Teacher's and Staff Association of Silchar Collegiate School. This application has been filed for impleadment as a party respondent in W.P(C) No. 1375/2023. The opposite party/respondents have filed objections. The parties are represented and the pleadings are complete as no other respondent wishes to file any objections. Applicant also does not seek to file any rejoinder to the objections filed by the opposite party/writ petitioner. Since the prayer made in this interlocutory application is for seeking impleadment of the parties and as urged by the counsels for the parties, the matter is taken up for hearing and disposal.

4. It is the submission of the learned Senior counsel that the order which has been suspended by the order dated 31.03.23 has the effect of putting the services of the Teachers and Staffs of the School in quandry inasmuch as they have not been receiving their salaries for the past month. It is submitted that the erstwhile Committee with the petitioner as the President which was re-constituted by the Deputy Commissioner, Cachar had committed a lot of irregularities in the management of the affairs of the School. As such continuation of this interim order will have the effect of depriving them of their current wages and salaries. It is further submitted that the teachers are members of the School Management Committee in terms of the

provision of Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 read with the Rules. The learned Senior counsel submits that under the Provisions of the Act of 2006 and the Rules, the Management committee of the School includes the representatives of the Teachers as Members also. The learned senior counsel further submits that by Notification dated 14.01.2019 passed by the Deputy Commissioner Cachar, the earlier ad-hoc committee of Silchar Collegiate School, Silchar was vacated with immediate effect and a new Managing Committee of the School was constituted with the members named therein. The said committee comprised of a President, Secretary, the Head Master/ Head Mistress of the School as the Ex-officio Member and three Guardians representatives. It is submitted that thereafter by an emergent meeting of the Managing Committee held of 30.09.2022, another Managing Committee was constituted with the present writ petitioner being nominated as the President of the re-constituted Managing Committee. Thereafter, pursuant to a representation filed by the applicants ventilating certain grievances before the Deputy Commissioner, Cachar another meeting held in the Office of the Deputy Commissioner, Cachar on 11.10.2022 and a separate committee was formed with the respondent No. 3 who is an ACS Officer and the Executive Magistrate of Cachar as the President along with other members comprising of the Head Master as the Secretary, three teachers and three guardians to be selected by the Members by means of voting. The petitioner was also present in the meeting held in the Office of the Deputy Commissioner, Cachar. On the same day, the voting was done and pursuant thereto, a new School Managing Committee was constituted. The learned Senior counsel for the applicant submits that the Teachers are integral part of the School and as such representatives of the teachers community are also required to be members of the Management Committee as prescribed under the Provisions of the Act and Rules. Therefore, in case of any mismanagement carried on in the affairs of school, the teachers are aggrieved parties and they ought to be arrayed as party respondents in the writ petition.

5. Per contra, Ms. P. Chakraborty, learned counsel for the appearing for the writ petitioner/opposite party submits that writ petitioner is aggrieved by the said Minutes of the Meeting held on 11.10.2022 at the Office of Deputy Commissioner, Cachar by which the Management Committee was re-constituted and it was held that there is no role of the Guardian Society in the betterment of the School and accordingly, the representatives of the guardian Society of the School constituted by the earlier meeting were removed from the School Management Committee. It is submitted that since no relief has been sought for by the writ petitioner against the teachers or their representatives, the applicants are not necessary parties in the present proceedings and on that count alone this interlocutory application should be dismissed.

6. Learned counsels for the parties have been heard. It is seen that as per the Provisions of the of Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 and the Rules, there is a prescription under the Act that School Management Committee is to be constituted with the members by the Director. Under the provisions of 12 of the Act of 2006, it is prescribed as under:

“12. Constitution of the Managing Committee - (1) Every non-government educational institution shall constitute a Managing Committee consisting of the following, namely:-

*(a) The Chairman or the President or the Principal : Chairman
managing agent of the society or trust or the
association of individuals or the person or individual
establishing the non-government educational institution,
shall be the Chairman of the Managing Committee;*

*(b) Head Master, the Principal of the institution, as the ; Member.
case may be*

*(c) ; wo representatives to be elected or selected by the : Members
Guardians from amongst themselves in a meeting to be
convened by the School Authority in this behalf*

*(d) Two Teachers/Lecturers of the institution elected or : Members
selected from amongst themselves*

(e) Any person who shall be educationist of the locality : Members

*(f) Two members to be nominated or elected by the : Member/ Member
society or trust or association of individuals society or
trust or association of individuals or the individual Secretary*

establishing and running the institution out of which one shall be chosen as the Member Secretary.

(2) The term of the Managing Committee shall be for a period of two years.

(3) If, for any reasons whatsoever, any vacancy of members occur during the term of the existing Managing Committee, it shall be filled up in the like manner as is applicable at the time of constitution of the Managing Committee.

(4) If any member expressly desires in writing not to continue as a member in the Managing Committee or abstains himself in three consecutive meetings of the Managing Committee, such member ceases to be a member of the Managing Committee from the date of receipt of the communication by the School Authority or such abstention, as the case may be.

(5) The members shall be entitled to such TA. and DA for attending meetings of the Managing Committee from the School Authority as may be prescribed."

7. However, careful perusal of the Act and the Rules does not reveal prima facie that the Deputy Commissioner of a District has been conferred under any provision to constitute or re-constitute any committee. The Inspection/Supervision is vested on the the Director or any Officer authorized in this behalf as per Section 20 of the Act. Audit of the Accounts is also to be conducted by the Director under Section 22 of the Act. The assistance of police and civil administration can be taken by the Director as and when the situation so demands as per provisions of Section 26 of the Act. No material has been placed before this Court to show that the Deputy Commissioner, Cachar has been delegated with any authority to constitute or re-constitute any School Management Committee.

8. Having heard the counsels for the parties and upon due perusal of the provisions of the Act, it does appear prima facie that the representatives of the Guardians and the Teachers are both required to be members of any School Committee as may be constituted as per the provisions of the Act. It is imperative to take note of the fact that teachers to be members in the School Management Committee is prescribed under the Rules. Taking the entire matter into consideration, this Court is of the view that the question whether the Deputy Commissioner will have

any role/responsibility under the provisions of the Act of 2006 and the Rules framed thereunder will require proper examination. Therefore, the prayer for impleadment of the applicants as teachers ought not to be rejected only on the ground that it is only the action of the Deputy Commissioner as reflected in the Minutes of Meeting held on 11.10.2022 that has been questioned. This Court is of the considered view that although no specific relief has been claimed against the applicants for a proper decision in the matter, the applicants should be arrayed as a party respondents for proper adjudication of the issues raised in the W.P.(C) vis-à-vis the mandate of the Act of 2006 read with the Rules.

9. Accordingly, the Interlocutory Application is allowed and disposed of in terms of the above.

10. The registry is directed to make necessary changes in the cause title arraying the present applicant as respondent No. 4.

JUDGE

Comparing Assistant