

GAHC010101892022



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

Case No. : I.A.(Civil)/1560/2022

ZAHIRUL ISLAM
HEADMASTER-CUM-MEMBER SECY. OF BAGHARCHAR L.P. SCHOOL,
VILLAGE-BAGHARCHAR (JHAWDANGA PART II), PO- JHAWDANGA, PS
MANKACHAR, ASSAM,PIN-783131

VERSUS

ANJALANA BEGUM AND 5 ORS
W/O SHAHAJAHAN SK., VILL. BAGHARCHAR, PO- JHOWDANGA, PS
MANKACHAR, DIST. SOUTH SALMARA MANKACHAR (ASSAM), PIN-
783131

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPTT.
GUWAHATI-06

3:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

4:THE DEPUTY COMMISSIONER
SOUTH SALMARA MANKACHAR
PO HATSINGIMARI
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-783135

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
PO- DHUBRI

DIST. DHUBRI
ASSAM
PIN-783301

6:BLOCK ELEMENTARY EDUCATION OFFICER
MANKCHAR
PO- HATSINGIMARI
DIST. SOUTH SALLMA MANKACHAR
ASSAM
PIN-78313

Advocate for the Petitioner : MR. M H ANSARI

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

Date : 20.09.2023

Heard Mr. MH Ansari, learned counsel for the applicant. Also heard Mr. MR Khandakar, learned counsel for the writ petitioner and Ms. N Phukan, learned counsel for the authorities under the Elementary Education Department of Government of Assam.

2. WP(C)/6131/2021 was instituted by Anjalana Begum being aggrieved by an order dated 02.09.2021 of the District Elementary Education Officer of Dhubri district by which the writ petitioner who was the President of the School Management Committee had been replaced by constituting another ad hoc committee.

3. While considering the writ petition in the order dated 01.11.2022, it was also taken note of that the writ petitioner Anjalana Begum as the President of the School Management Committee had raised certain serious allegations

against the Headmaster of the school concerned that he had recorded certain land belonging to the school in the name of his father and further that there were certain allegations of financial irregularities against the Headmaster.

4. Taking note of the *prima facie* case made out that firstly a duly constituted Management Committee cannot be replaced by an ad hoc Committee in an arbitrary manner and secondly that the background reason is that the President of the Management Committee has raised certain serious allegations of financial irregularities against the Headmaster of the school, the interim order staying the order of replacing the School Management Committee dated 02.09.2021 was passed.

5. This interlocutory application is instituted by the Headmaster concerned for vacating the interim order. One of the grounds taken is that the allegation of financial irregularities was enquired into and it was found to be false. Secondly, that the applicant had not mutated any land of the school in the name of his father.

6. Mr. MR Khandakar, learned counsel for the writ petitioner on the other hand relies on certain documents to substantiate the allegation that the applicant Headmaster had in fact done so.

7. Considering the nature of allegation and counter allegations, it appears that it is a personal dispute between the writ petitioner President and the Headmaster regarding some financial irregularities. But it is noticed that the party to be affected by the interim order of staying the order dated 02.09.2021 would be the person who had replaced the writ petitioner as the President and not the Headmaster of the school.

8. From such point of view, we do not find any *locus-standi* on the part of the

Headmaster of the school seeking for a vacation of the interim order. On the other hand, it appears that the Headmaster is trying to take advantage of the application for vacating the interim order in the writ petition to raise counter claims against the allegations made against him, which would be unacceptable in the present circumstance. If the Headmaster is aggrieved by any allegation made against him, it is for the Headmaster to initiate appropriate proceeding against such allegation and it cannot be a case that the Headmaster would be allowed to take advantage as a respondent in the writ petition to substantiate his case against such allegation.

9. From such point of view, this interlocutory application seeking for vacating the interim order stands rejected.

10. Mr. MH Ansari, learned counsel for the applicant tries to raise further allegation that the term of the earlier Committee is over.

11. Again we are of the view that it is not the *locus* on the part of the applicant to raise any such issue and it appears that the petitioner is more interested to support the other person who was made the President on an ad hoc basis. The said attempt of the petitioner on the background of the serious allegations against him raises certain doubt on the *bonafide* of the applicant.

12. As it appears that there are serious allegations of mutating the land of the school in the name of the father of the Headmaster and further financial irregularities of the Headmaster which was reported by the President of the School Management Committee and the Headmaster in his attempt to support the ad hoc President whose appointment has been stayed by the Court, which again in the background of the serious allegations raised against him, we are of the view that there is a requirement of the Director of Elementary Education of

Government of Assam to conduct a thorough enquiry on the aforesaid allegations against the Headmaster of Bhagharchar L.P. School in the South Salmara Mankachar district which is the applicant herein and depending upon the outcome of the enquiry, to take appropriate action including disciplinary proceeding against the Headmaster.

13. The compliance of the requirement of the Director to conduct the enquiry and take appropriate action be informed to the Court on the next date of listing of WP(C)/6131/2021.

14. A copy of this order be provided to Ms. N Phukan, learned counsel for the Elementary Education Department of Government of Assam for doing the needful to comply with the above requirement.

I.A. stands closed in the above terms.

JUDGE

Comparing Assistant