

GAHC010105572023



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

Case No. : WP(C)/2759/2023

TILAK PRASAD RABIDAS AND ANR
S/O LT. RAMDAS RABIDAS PRESIDENT SCHOOL MANAGING COMMITTEE
JAGOI MATHURA M E SCHOOL VIIL BINNAKANDI DIST. CACHAR ASSAM
PIN 788126

2: KANTA SINGHA
S/O LT. BABATN SINGHA MEMBER SCHOOL MANAGING COMMITTEE
JAGOI MATHURA M E SCHOOL VIIL BINNAKANDI DIST. CACHAR ASSAM
PIN 78812

VERSUS

THE STATE OF ASSAM AND 10 ORS
THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM SECONDARY EDUCATION DEPTT. DISPUR GUWAHATI 781006

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM ELEMENTARY EDUCATION DEPTT. DISPUR
GUWAHATI 781006

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA GUWAHATI 781019

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA GUWAHATI 781019

5:THE DISTRICT LEVEL COMMITTEE OF AMALGAMATION OF SCHOOL
CACHAR
REP. BY ITS CHAIRMAN AND ADDITIONAL DEPUTY COMMISSIONER
CACHAR SILCHAR DIST. CACHAR ASSAM

6:THE DEPUTY COMMISSIONER

CACHAR
SILCHAR DIST. CACHAR ASSAM

7:THE BLOCK LEVEL COMMITTEE
FOR BOTH SECONDARY AND ELEMENTARY SECTOR
CACHAR REP. BY ITS CHAIRMAN CUM THE DISTRICT ELEMENTARY
EDUCATION OFFICER CACHAR SILCHAR DIST. CACHAR ASSAM

8:THE INSPECTOR OF SCHOOLS
CACHAR DISTRICT CIRCLE SILCHAR SILCHAR DIST. CACHAR ASSAM

9:THE BLOCK ELEMENTARY EDUCATION OFFICER
LAKHIPUR EDUCATION BLOCK LAKHIPUR POILAPOOL DISTRICT
CACHAR ASSAM PIN 783129

10:JUGAI MATHURA HIGH SCHOOL
REP. BY THE HEADMASTER VILL. AND P.O. BINNAKANDI DIST. CACHAR
ASSAM PIN 788126

11:PRINCIPAL (I/C)
JUGAI MATHURA HIGH SCHOOL VILL. AND P.O. BINNAKANDI DIST.
CACHAR ASSAM PIN 78812

Advocate for the Petitioner : MR. R MAJUMDAR

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

24-05-2023

Heard Shri R. Majumdar, learned counsel for the petitioners. Also heard Shri S. M. T. Chistie, the learned Standing Counsel, School Education Department and Ms. D. Das Barman, the learned State Counsel.

Considering the facts and circumstances and as agreed to by the parties, this writ petition is taken up for disposal at the motion stage itself.

The petitioners (two in numbers) are the Office Bearers of the School Management Committee of the Jugai Mathura M. E. School in the district of Cachar. An Office Memorandum dated 03.08.2021 was issued by the Secretary, Education Department pertaining to certain policy decisions. The said policy decision is on a

Scheme for amalgamation and merger of different Schools. Pursuant to the said Office Memorandum, an order has been passed on 27.04.2023 by which the School of the petitioners, namely Jugai Mathura M. E. School has been proposed to be amalgamated with the Jugai Mathura High School. The petitioners also submits that against the proposed action of amalgamation, a representation has been submitted on 02.05.2023 which is yet to be considered.

Shri Majumdar, the learned counsel for the petitioners has submitted that the Office Memorandum dated 03.08.2021 lays down certain policy decisions including cases of M. E. Schools and the relevant Clause is Clause 11, which is extracted herein below:-

“11. To optimise the use of services of teachers of a two-class High School, one nearby ME School having poor enrolment i.e., less than 35 students in each class may be merged with the High School. However, in the case of Hilly areas, difficult terrain and places having natural barriers, the distance norms shall have to be reduced, as per suitability and need of that particular area.”

Learned counsel for the petitioners submits that as a pre-condition of such amalgamation, the ME School-in-question is required to have poor enrolment, which has been quantified as less than 35 students in each class. However, the learned counsel for the petitioners has submitted that so far as the School of the petitioners is concerned, the said pre-condition is not there and on the contrary, there are more than 100 students in each class. That apart, it is submitted that the M. E. School-in-question is an old school with high reputation and therefore the public in general are not in favour of such amalgamation which would not serve any public purpose. As stated above, a representation has been filed before the appropriate authority, which is yet to be considered.

Shri S. M. T. Chistie, the learned Standing Counsel however submits that the impugned notification itself provides for preferring an appeal in the form of Clause-19. However, the representation annexed to this petition does not bear any indications that the same was received by the Appellate Authority.

This Court is of the opinion that since there is a dispute redressal mechanism stipulated in the Office Memorandum itself and a representation dated 02.05.2023 has been stated to be submitted, interest of justice would be served if a direction is given for consideration of the representation of the petitioners.

Accordingly, this writ petition is disposed of by directing the Secretary, School Education, Govt. of Assam to consider the representation of the petitioners in accordance with law and pass a speaking order expeditiously and preferably within a period of 3 (three) weeks.

To facilitate such consideration, the petitioners are given liberty to submit a fresh appeal/representation to the appropriate Appellate Authority which has been stated above within a period of a week from today alongwith all necessary documents including those to show the numbers of students in each class of the School. The period of 3 (three) weeks is to be reckoned from the date of receipt of the representation.

To balance the equities, it is directed that till the representation is disposed of, final orders of amalgamation may not be passed in respect of the School-in-question. It is however made clear that if no such representation is received within a period of 1 (one) week from today, the interim direction will not be applicable.

JUDGE

Comparing Assistant