

GAHC010111492018



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

Case No. : Cont.Cas(C)/310/2018

LAILY KHATUN
HEAD MISTRESS, KUMULLIPARA M E MADRASSA, W/O- NURUL AMIN,
R/O- VILL- KUMULLIPARA, P.O- GAREMARI, P.S- HOWLY, DIST- BARPETA,
ASSAM, PIN- 781314

VERSUS

PREETOM SAIKIA
IAS, COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
ELEMENTARY EDUCATION DEPTT, DISPUR, GHY- 6, DIST- KAMRUP(M),
ASSAM, PIN- 781006

Advocate for the Petitioner : MR A CHOUDHURY

Advocate for the Respondent : MS. N PHUKAN

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

14.06.2023

Heard Shri S. Islam, learned counsel for the petitioner. Also heard Ms. N. Phukan, learned counsel for the respondent. The Contempt Petition pertains to an order dated 09.06.2016 passed by this Court in WP(C)/6805/2015. The

operative part of the order is extracted herein below:

“Considering the entire aspect of the matter, the Commissioner and Secretary to the Government of Assam in the Elementary Education Department is directed to rehear the matter afresh giving an opportunity of hearing to the present petitioner and the respondent Nos. 4 to 8 and to pass a fresh order considering the aforementioned reports dated 27.02.2009 of the Deputy Inspector of Schools, Barpeta (Annexure-F to the petition), the report of the District Elementary Education Officer, Barpeta dated 5.8.2010 (Annexure-G to the petition) as well as the report of the Joint Secretary to the Government of Assam, Secondary Education Department dated 22.01.2015 (Annexure-O to the petition).

Both the petitioner and respondent No. 8 shall submit their necessary documents, if any, before the Commissioner & Secretary, Elementary Education Department, Government of Assam on or before 30th June, 2016 for his necessary consideration. After going through the aforementioned reports as well as the documents that are submitted by the petitioner and the respondent No. 8, the Commissioner and Secretary concerned, i.e. the respondent No. 1 shall pass a reasoned order in the matter on or before 31.08.2016.”

Thereafter, this contempt petition was filed in the year 2018 which is pending till now.

This Court on the last occasion while recording the submission of the learned counsel for the respondent that the order of this Court was complied with and a speaking order was passed on 30.01.2020, a copy of which was produced, this Court had noted that no affidavit has been filed in this case and personal appearance was also not dispensed with. Accordingly, the respondent was directed to appear in person today with an affidavit.

Ms. N. Phukan, learned counsel has submitted that the affidavit has been filed today. However, due to certain health issues of the respondent, he could

not personally appear for which she had tendered apology.

In the affidavit filed today, a copy of the order dated 30.01.2020 has been annexed. In the said order, the findings and the decisions have been recorded. This Court is of the opinion that though there is a delay since the order of this Court substantially stood complied with by passing of the order dated 30.01.2020 which has been placed on record by way of an affidavit, interest of justice may not require the contempt proceeding to continue. Further, since the order in question was already taken note of when the order dated 10.05.2023 was passed by this Court and further that personal appearance was directed only because of the fact that the same was not dispensed with, this Court accepts the apology tendered.

Accordingly, the contempt petition stands closed. However a liberty is granted to the petitioner to challenge the legality of the order dated 30.01.2022 in accordance with law, if so advised.

JUDGE

Comparing Assistant