

GAHC010252042022



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

Case No. : Cont.Cas(C)/472/2020

MAHATMA SEVAGRAM HIGH SCHOOL
REP. BY ITS PRESIDENT/MANAGER OF MAHATMA SEVAGRAM SOCIETY
A.T.ROAD
GRAHAM BAZAR
DIBRUGARH- 780001

VERSUS

PREETOM SAIKIA AND 4 ORS.
THE COMM. AND SECY. TO THE GOVT. OF ASSAM
EDUCATION (SECONDARY) DEPTT.
DISPUR
GHY-06

2:PHANINDRA JIDUNG
THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:CHIRANJANA SENAPATI
THE SECY.
SEBA
BAMUNIMAIDAM
GHY-21

4:BHARAT BHUSHAN DEBA CHOUDHURY
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
EDUCATION (SECONDARY) DEPARTMENT
DISPUR
GUWAHATI-781006.

5:SMT. MAMATA HOJAI
DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA

GUWAHATI-781019.

Advocate for : MS. S B CHOUDHURY

Advocate for : MR S M T CHISTIE (r-4) appearing for PREETOM SAIKIA AND 4
ORS.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

21-03-2023

Heard Ms. S.B. Choudhury, learned counsel for the petitioner and Mr. S.M.T.Chistie, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 1, 2, 4 & 5. Also heard Mr. D.K. Roy, learned Standing counsel for the respondent No. 3.

2. Though the petitioner School approached the respondent authorities for granting permission to open Class-X in the school, namely, Mahatma Sevagram High School at Graham Bazar, District-Dibrugarh under the Mahatma Sevagram Society so as to become eligible for financial assistance from the State Government, but the respondent authorities have not done anything with regard to the application filed for opening of Class-X in the said school.

3. The said school is in existence since 1997 imparting education upto Class-IX and when it approached the State Government for granting financial assistance in terms of the order dated 31.07.2014 passed by the Court in WP(C) No. 758/2013, the Director of Secondary Education, Assam rejected such prayer of the petitioner school in granting financial assistance to it on the ground that the school must have recognition from the Board of Secondary Education Assam (SEBA) for imparting education upto Class-X and as the said school has been granted permission to impart education only upto Class-IX which has not been for imparting education upto Class-X, it is not eligible for the financial assistance.

4. Being aggrieved with the same, the petitioner school preferred a writ petition being WP(C) No. 6591/2017 which was disposed of on 02.08.2019 with the observation that –“ *this Court is of the view that if the Inspector of Schools had made the necessary inspection and if the school is otherwise,*

eligible for opening up Class-X, for which necessary recommendation was made accordingly, the authorities shall consider the same and pass appropriate order in this regard so that the Board of Secondary Education may consider granting of approval for opening Class-X in the school in which event they can apply to the State Government for grant of financial assistance.

5. *The aforesaid consideration relating to grant of permission to open Class-X may be considered by the State authorities, more particularly, respondent No. 2 within a period of 3 (three) months from the date of receipt of a certified copy of this order. As regards the claim for financial assistance, it is for the Government to decide the same in accordance with the prevailing rules and norms in that regard."*

6. By filing an additional affidavit in this contempt petition on 17.02.2022, the petitioner school apprised the Court about the communication under No. SEBA/ Recog/Class-X Per/2017-18/VI/24 dated 09.12.2021 whereby the Secretary of Board of Secondary Education, Assam granted the School Code and provisional recognition to the petitioner school as Private Institution in accordance with the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 under the Assam Non-Government Educational Institutions (Regulation and Management) Rules, 2007 specifying the School Code No. 09H1019 with the School Status-RP and Medium as Assamese subject to the condition that the academic standard laid down in the Board's Regulation for Recognition of High School is thoroughly adhered to, specifying that on their failure to comply with said standard, the recognition will be withdrawn at any time if Board deems necessary.

7. It is stated that though the petitioner School is given School Code with the provisional recognition of SEBA vide communication dated 09.12.2021 for opening of Class-X but it has not yet been granted any financial assistance and the said part of the order dated 02.08.2019 passed in WP(C) No. 6591/2017 is yet to be complied with by the respondent authorities in the Secondary Education Department.

8. On perusal of para 6 of the said order dated 02.08.2019, noted above, it can be seen that the Court specifically observed that the respondent authorities shall consider granting of approval for opening Class-X in the petitioner school and in that event, the petitioner school can apply before the State Government to grant financial assistance.

9. However, there is nothing before this Court that after obtaining such approval for opening of Class-X in said Mahatma Sevagram High School on 09.12.2021 from SEBA, the authorities of the said

School applied before the Government for Financial Assistance that is pending for consideration.

10. Moreover, by the communication dated 09.12.2021, the Secretary of SEBA granted the petitioner school with its school code and provisional recognition as private institute under the said 2006 Act and 2007 Rules noted above.

11. Further, the petitioner school is not aggrieved with the order dated 09.12.2021 of SEBA in granting provisional recognition for opening Class-X in it along with the school code.

12. At this stage, Ms. Choudhury, learned counsel for the petitioner school submits that the application has been filed before the appropriate authority for granting of financial assistance to the said school.

13. In view of the above, this Court is of the opinion that the respondent authorities have not committed any such contempt of Court rather complied with the order dated 02.08.2019 passed in said WP(C) No. 6591/2017 granting provisional approval to open Class-X in the said school.

14. Needless to say that in the event of filling an application for granting of financial assistance to the petitioner school i.e., Mahatma Sevagram High School at Graham Bazar, District-Dibrugarh after said provisional recognition of Class-X in that School, the respondent authorities in the Secondary Education as well as the Finance Department of the State shall consider it in accordance with law and following the relevant provisions and rules considering the fact that said School obtained provisional recognition of Class-X from SEBA on 09.12.2021 as a private institute under the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 and the Assam Non-Government Educational Institutions (Regulation and Management) Rules, 2007.

15. Accordingly, this contempt petition stands closed.

JUDGE

Comparing Assistant