

GAHC010145542022



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

Case No. : WP(C)/4776/2022

RAJEEB KALITA
S/O LT. MADHAB CH. KALITA,
VILL.- DHARAPUR, P.O.- AZARA, KAMRUP (METRO),
ASSAM-781017.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
SECONDARY EDUCATION DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE DEPUTY COMMISSIONER
KAMRUP (METRO)
PANBAZAR
GUWAHATI-781001
ASSAM.

3:THE INSPECTOR OF SCHOOLS
KAMRUP (METRO) DISTRICT CIRCLE
PANBAZAR
GUWAHATI- 781001.

4:CHANDRA MOHAN PATOWARY
GUARDIAN MINISTER
ASSAM SECRETARIAT
DISPUR
KAMRUP(M)
GUWAHATI- 781006.

5:THE PRINCIPAL
DHARAPUR HIGHER SECONDARY SCHOOL
DHARAPUR

P.O.- AZARA
DIST.- KAMRUP (MERTO)
ASSAM- 781017.

6: TARUN CH. DAS
S/O HUMESHWAR DAS

VLL.- DHARAPUR
BORIPARA
P.O.- AZARA
DIST.- KAMRUP (METRO)
ASSAM- 781017

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

20.07.2023

O R D E R

Heard Mr. B.D. Konwar, learned Senior counsel, assisted by Mr. J. Singh, learned counsel for the petitioner. Also heard Mr. S.M.T. Chistie, learned Standing Counsel, Secondary Education Department, Government of Assam for respondent Nos.1 and 3 as well as Mr. S.R. Baruah, learned Government Advocate, Assam for respondent No.2.

2. By this writ petition, the petitioner is challenging the communication dated 20th July, 2022 issued by the Inspector of Schools, Kamrup (M) District Circle by which the respondent No.6, namely, Tarun Ch. Das along with another was nominated as President and Vice-President of Dharapur Higher Secondary School. The communication further states that the names of the President and the Vice-President has the approval of the Guardian Minister under the power conferred vide Government of Assam, Secondary Education Department, Dispur, Guwahati-6's Notification dated 27.10.2021.

3. Mr. Chistie, learned Standing Counsel, Secondary Education Department, Government of Assam has produced the records.

4. A perusal of the records would indicate that the OSD to Hon'ble Minister, Transport, Industries and Commerce Department, Assam directly wrote to the Inspector of Schools, Kamrup (M) District Circle on 7th June, 2022 forwarding the approved list of names for President and Vice-President of School Management and Development Committee (SMDC) of Government and provincialised Higher Secondary Schools in respect of Kamrup (M) district. On the basis of the letter dated 7th June, 2022, the Inspector of Schools, Kamrup (M) District Circle issued the impugned communication dated 20th July, 2022 directing the Principal of Dharapur Higher Secondary School for re-constitution of new SMDC.

5. This Court has perused the Notification dated 27.10.2021 issued by the Principal Secretary to the Government of Assam, Secondary Education Department where it is provided that in partial modification of the guidelines for constitution of SMDC issued vide Govt. Notification dated 24.06.2016, the Deputy Commissioner is empowered to select the President and Vice-President of the SMDC of an educational institution of the concerned district with the approval of the Guardian Minister.

6. A perusal of the records would clearly indicate that the steps taken by the official respondents were in contravention with the Notification dated 27.10.2021 and, thereafter, the Inspector of Schools wrote the impugned communication dated 20th July, 2022.

7. In that view of the matter, this Court is of the considered opinion that the Inspector of Schools, Kamrup (M) District Circle has no jurisdiction to write the communication dated 20th July, 2022 by which the respondent No.6 was nominated as President of the said Dharapur Higher Secondary School.

8. Accordingly, the communication dated 20th July, 2022 is set aside and quashed.

9. The matter is now remanded to the Deputy Commissioner, Kamrup (M) to initiate steps for selection of the President and Vice-President of the new SMDC of Dharapur Higher Secondary School in accordance with the provisions of the

Notification dated 27.10.2021. While considering the matter, the Deputy Commissioner, Kamrup (m) shall also consider the proposal dated 20.10.2021 sent by the Principal, Dharapur Higher Secondary School which has been done in accordance with the resolution and proposal taken in the General Meeting of Dharapur Higher Secondary School held on 19.10.2021.

Let such exercise be completed within a period of one month from the date of receipt of a copy of this order.

10. With the aforesaid observations and directions, the writ petition is disposed of.

JUDGE

Comparing Assistant