

GAHC010151332022



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

**Case No. : Cont.Cas(C)/442/2022**

MS. MANJU GUPTA  
D/O BISWA NATH PRASAD GUPTA, ASSISTANT TEACHER, VIVEKANANDA  
BIDYAPITH H.S, DHEKIAJULI, DIST-SONITPUR, PIN-784110

VERSUS

BHARAT BHUSAN DEV CHOUDHURY AND 4 ORS.  
SECRETARY TO THE GOVT. OF ASSAM, EDUCATION (SECONDARY)  
DEPARTMENT, DISPUR, GUWAHATI-6

2:MS. MAMATA HOJAI  
DIRECTOR OF SECONDARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-19

3:PRABHAT DAS  
INSPECTOR OF SCHOOLS  
SONITPUR DISTRICT CIRCLE  
TEZPUR  
DIST-SONITPUR  
ASSAM

4:AMITAVA CHOUDHURY  
HEAD MASTER  
VIVEKANANDA BIDYAPITH H.S  
DHEKIAJULI

DIST-SONITPUR  
PIN-784110

5: BABUL KANTI DAS  
PRESIDENT  
SCHOOL MANAGEMENT AND DEVELOPMENT COMMITTEE  
VIVEKANANDA BIDYAPITH H.S  
DHEKIAJULI  
DIST-SONITPUR  
PIN-78411

**Advocate for the Petitioner** : MRS. R DEVI

**Advocate for the Respondent** : MR F Z MAZUMDER (r-4)

**BEFORE**  
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

**ORDER**

**Date : 01-02-2023**

Heard Mrs. R Devi, learned counsel for the petitioner. Also heard Mr. NJ Khataniar, learned counsel for the respondent Nos. 1 to 3 and Mr. FZ Mazumder, learned counsel for the respondent No. 4.

2. The petitioner has filed this contempt petition for alleged non-compliance of the order dated 06.05.2022 passed in WP(C) No. 2932/2022, on the ground that the payment of salary has been stopped in view of the discrepancy in the date of birth of the petitioner recorded in the Service Book vis-à-vis the date of birth recorded in the HSLC certificate.

3. The petitioner's counsel submits that the petitioner has not been paid her salary from August 2021 and it was in that view of the matter that the petitioner had filed WP(C) No. 2932/2022.

4. The petitioner's counsel submits that as this Court had stayed the decision of the State respondents to stop paying the salary of the petitioner, the petitioner was entitled to the payment of salary from August, 2021.

5. Mr. NJ Khataniar, learned counsel for the respondent Nos. 1 to 3 has submitted a Speaking Order dated 28.09.2022, issued by the office of the Inspector of Schools, Sonitpur District Circle, Tezpur, which is to the effect that the discrepancy regarding the date of birth of the petitioner has been enquired into, wherein the petitioner was also present. In this regard, the Secondary Education Council, Uttar Pradesh has also written a letter No. M.S.P./Satyapan/30/902/2022-33 dated 08.09.2022, which proves that the petitioner's date of birth was 06.10.1958 and not 30.03.1966 as claimed by her in her Service Book. In that view of the matter, the petitioner was allowed to go on retirement from her service w.e.f. 31.10.2018.

6. Mr. NJ Khataniar, learned counsel thus prays that the contempt petition should be closed, as there is no case of contempt made out.

7. Mr. FZ Mazumder, learned counsel for the respondent No. 4 also makes

the same submission as Mr. NJ Khataniar, learned counsel for the respondent Nos. 1 to 3.

8. As per the Speaking Order dated 28.09.2022 issued by the office of the Inspector of Schools, the petitioner's date of birth is actually 06.10.1958 and not 30.03.1966. If the petitioner is aggrieved by the said speaking order, the petitioner would have to make a challenge to the same. Besides the above, the question of the petitioner being paid her salary from August 2021 would not arise, as the Speaking Order has to be deemed to be a valid order unless and until it is set aside by a Court.

9. In the case of ***State of Kerala vs. M.K. Kunhikannan Nambair***, reported in ***(1996) 1 SCC 435***, the Apex Court has held that all official decisions are presumed to be valid until set aside or held to be invalid by a court of competent jurisdiction.

10. In view of the decision of the Apex Court and as the Speaking Order dated 28.09.2022 has to be deemed to be a valid decision as on date, wherein the petitioner has been declared to be retired w.e.f. 31.10.2018, the payment of wages subsequent to that period would not arise. Accordingly, no case of contempt has been made out.

10. The contempt petition is accordingly closed.

11. The speaking order dated 28.09.2022 is made a part of the record and marked as Annexure-"X".

**JUDGE**

**Comparing Assistant**