

GAHC010162042021



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

Case No. : WP(C)/5252/2021

RAJU ADHIKARI
HEADMASTER, BORPATHAR HIGH SCHOOL, BARPATHAR, DIST. KARBI
ANGLONG, ASSAM, PIN 782480

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECY., EDUCATION
(SECONDARY) DEPTT., DISPUR, GHY 6

2:KARBI ANGLONG AUTONOMOUS COUNCIL

REPRESENTED BY THE PRINCIPAL SECY.
KAAC
DIST. KARBI ANGLONG
ASSAM.

3:THE SECY.

DEPTT. OF SECONDARY EDUCATION
KAAC
DIPHU

4:THE DEPUTY SECY.

DEPTT. OF PERSONNEL-B
KAAC
DIPHU

5:THE INSPECTOR OF SCHOOLS

KARBI ANGLONG DIST. CIRCLE

DIPHU

6:RATAN CHAKRABORTY

HEADMASTER
UTTAR BORBIL BINAPANI HIGH SCHOOL
HOWRAGHAT
P.O. HOWRAGHAT
DIST. KARBI ANGLONG
ASSAM
PIN 78248

Advocate for the Petitioner : MRS. R DEVI

Advocate for the Respondent : SC, SEC. EDU.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

14/09/2023

Heard Mrs. R Devi, learned counsel for the petitioner and Mr. P N Sarma, learned Standing counsel, Department of School Education for the respondent No. 1. Also heard Mr. J Chutia, learned Standing counsel, KAAC for the respondent Nos. 2 to 5.

2. By order under Memo No. E-1/UBB HS/2021/4759-65 dated 16.09.2021, the Inspector of Schools, Karbi Anglong District Circle, Diphu transferred the respondent No. 6, Headmaster of Uttar Borbil Binapani High School, Howraghat, Karbi Anglong in the same capacity to Borpathar High School, Borpathar, Karbi Anglong in which the petitioner has been serving as its Headmaster.

3. By the said order dated 16.09.2021, the Inspector of Schools, Karbi Anglong District Circle, Diphu directed that the respondent No. 6 will move first and that the said transfer order was issued in pursuance of the approval of the Deputy Secretary, Department of Personnel-B, KAAC, Diphu vide letter dated 15.09.2021.

4. The Inspector of Schools, KADC, Diphu through Mr. J Chutia, learned Standing counsel, KAAC has placed a communication dated 12.09.2023 before the Court and apprised that there were certain allegations against the respondent No. 6 pertaining to distribution of Mid-Day Meal to its students which was verified and accordingly, the respondent No. 6 was transferred from Uttar Borbil Binapani

High School, Howraghat to Borpathar High School, Borpathar and in his place, the petitioner was transferred from Borpathar High School, Borpathar to Uttar Borbil Binapani High School, Howraghat. Though, the respondent No. 6 was released from Uttar Borbil Binapani High School, Howraghat and went to Borpathar High School, Borpathar to join in the said High School, but in absence of the petitioner, the respondent No. 6 could not join his service in that school.

5. The petitioner has preferred this writ petition on 29.09.2021 challenging the said transfer order dated 16.09.2021 of the Inspector of Schools, Karbi Anglong District Circle, Diphu and the Court by order dated 06.10.2021 suspended the said impugned order of transfer of the petitioner and the respondent No. 6 dated 16.09.2021.

6. From the communication of the Inspector of Schools, Karbi Anglong District Circle, Diphu dated 12.09.2023, it is seen that with regard to the anomalies in distributing the Midday Meal Scheme to the students of said Uttar Borbil Binapani High School, Howraghat, during the tenure of the respondent No. 6, no disciplinary proceeding had been initiated against him. However, he was transferred by the Inspector of Schools, Karbi Anglong District Circle, Diphu vide order dated 16.09.2021.

7. The communication dated 12.09.2023 of the Inspector of Schools, Karbi Anglong District Circle, Diphu also reflects that the respondent No. 6 is still serving as the Headmaster of Uttar Borbil Binapani High School, Howraghat, whereas the petitioner is also serving as the Headmaster of Borpathar High School, Borpathar.

8. The impugned order of transfer of the petitioner as well as the respondent No. 6 was of 16.09.2021 and the same was stayed by the Court vide order dated 06.10.2021.

9. Said impugned order of transfer of the petitioner as well as the respondent No. 6 dated 16.09.2021 issued by the Inspector of Schools, Karbi Anglong District Circle, Diphu was issued more than two years back and it remained without giving any effect to it because of the order of stay passed earlier by this Court on 06.10.2021 because of which both, the petitioner as well as the respondent No. 6 are serving in their respective schools, i.e., Borpathar High School, Borpathar, Karbi Anglong and Uttar Borbil Binapani High School, Howraghat, Karbi Anglong as Headmasters.

10. Since the impugned order of transfer under Memo No. E-1/UBB HS/2021/4759-65 dated 16.09.2021 of the Inspector of Schools, Karbi Anglong District Circle, Diphu transferring the petitioner and the respondent No. 6 was issued two years back, the Court is of the opinion that the same has

lost its force and accordingly, set aside and quashed.

11. Accordingly, this writ petition stands disposed of.

12. However, liberty is granted to the respondent authorities in the Karbi Anglong District Circle, Diphu in its Education Department to consider and pass necessary order regarding the transfer of the respondent No. 6, if so required.

13. The interim order passed earlier on 06.10.2021 stands vacated with the observation that the impugned order of transfer under Memo No. E-1/UBB HS/2021/4759-65 dated 16.09.2021 issued by the Inspector of Schools, Karbi Anglong District Circle, Diphu has lost its force.

14. Copy of the communication dated 12.09.2023 issued by the Inspector of Schools, Karbi Anglong District Circle, Diphu placed before the Court today by Mr. J Chutia, learned Standing counsel, KAAC be kept as a part of the record.

JUDGE

Comparing Assistant