

GAHC010147572021



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

Case No. : Cont.Cas(C)/387/2021

MADHU AGARWALLA
W/O- SANJAY GARODIA
R/O- HOJAI
P.O. AND P.S. HOJAI
DIST.- NAGAON
ASSAM

VERSUS

PHANINDRA JIDUNG and ANR.
DIRECTOR
SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

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

Advocate for : MR H R A CHOUDHURY
Advocate for : MR S M T CHISTIE (r-1) appearing for PHANINDRA JIDUNG and
ANR.

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

Date : 01-09-2023

Heard Mr. FU Barbhuiya, learned counsel for the petitioner. Also heard Mr. SMT Chistie, learned counsel for the respondents contemnors.

2. This contempt petition is instituted alleging willful and deliberate violation of the order dated 22.03.2021 in, amongst others, WP(C) No. 3483/2013.

3. The relevant provisions of the order dated 22.03.2021 is extracted as below:

“12. Having heard learned counsel for the parties and on perusal of the materials on record, this Court is of the view that since the petitioners had been appointed by the Managing Committee of the School, which fact has not been denied by the School authorities and since the petitioners have been serving in the said School for several years since 2008 and as they claim to be otherwise eligible for these posts, the State Government may examine their claims for approval of appointment in the School on the basis of relevant documents and Rules in this regard, within a period of 8 weeks from today.

13. In order to expedite the matter, the petitioners will be at liberty to submit their representations individually along with a copy of this order to the authorities concerned. The School authorities will also forward all the relevant documents to the Inspector of Schools, Nagaon District Circle, who, in turn, will forward it to the Director of Secondary Education, Government of Assam for doing the needful in terms of the directions of this Court. The Director of Secondary Education, Assam shall accordingly pass appropriate order(s) after approval and if the appointments of the petitioners are approved by the authorities, the authorities will accord necessary sanction for release of salary of the petitioners as per Government norms.”

4. A reading of the order makes it discernable that legal right of the petitioner claiming approval of appointment in the School on the basis of relevant documents and Rules had not been finally adjudicated but what has been directed was that the respondents would consider the documents and

relevant Rules in the individual representation of the petitioners and accordingly, pass a appropriate order (s) and if the appropriate order would lead to an approval by the authorities necessary action for release of the salary be taken.

5. Pursuant thereto, Mr. SMT Chistie, learned counsel for the respondents contemnors has produced an order dated 18.05.2023 of the Director, Secondary Education, Assam, by which placing reliance upon a Division Bench judgment dated 17.06.2003 in WA No. 252/2003, the claim of the petitioner for approval of appointment stood rejected.

6. As the order of the Court was only to give a consideration to the representation and pass a reasoned order, we are of the view that no further willful and deliberate violation of the order can be alleged and sustained in this contempt petition.

7. Contempt petition stands closed accordingly.

8. However, the petitioner is given the liberty to assail the order dated 18.05.2023, if so advised.

9. The order dated 18.05.2023 is kept on record.

JUDGE

Comparing Assistant