

GAHC010168102022



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

Case No. : WP(C)/5580/2022

RUHANA KHATUN
W/O. HABIBUR RAHMAN, ASTT. TEACHER, SONAIBERA SIDDIKA L P
SCHOOL, VILL. SONAIBERA GAON, P.S. JURIA, DIST. NAGAON, ASSAM,
PIN-782124.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTARY) DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DEPUTY COMMISSIONER

NAGAON
P.O.
P.S. AND DIST. NAGAON
ASSAM
PIN-782001.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER

NAGAON
P.O.
P.S. AND DIST. NAGAON
ASSAM
PIN-782001.

5:THE CIRCLE OFFICER

DHING REVENUE CIRCLE
P.O. DHING
DIST. NAGAON
ASSAM
PIN-782123.

6:THE HEAD MASTER

SONAIBERA SIDDIKA L.P. SCHOOL
SONAIBERA SIDDIKA LP SCHOOL
VILL. SONAIBERA GAON
P.S. JURIA
DIST. NAGAON
ASSAM
PIN-782124.

7:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT DISPUR
GUWAHATI -

Advocate for the Petitioner : MR. Z HAMMAD

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

02.08.2023

Heard Mr. Z. Hammad, learned counsel for the petitioner. Also heard Mr. B. Talukdar, learned Standing Counsel, Elementary Education Department, Assam appearing on behalf of respondent Nos.1, 2 and 4, Ms. M. Barman, learned Govt. Advocate, Assam appearing for the respondent Nos.3 and 5 and Mr. A. Bhattacharya, learned counsel appearing for the respondent No.7. Mr. J. C. Borah, learned counsel, has appeared for the respondent No.6.

The writ petitioner herein is working as an Assistant Teacher in the Sonaibera Siddika L. P. School in the district of Nagaon. She has approached this Court by filing the instant writ petition *inter-alia* alleging that the respondent No.6 i.e. the Headmaster of the School has illegally occupied land allocated to the school and raised permanent constructions of a dwelling house and a toilet therein, thus encroaching upon the land belonging to the school.

According to the learned counsel for the petitioner, due to the above illegal activities of the respondent No.6, the school had to be shifted to a private land wherefrom, it is operating till today. By inviting the attention of this Court to the report dated 23.03.2022 submitted by the District Elementary Education Officer, Nagaon, Mr. Hammad submits that on the basis of an enquiry made by the concerned officer, it was found that the allegations are correct.

Notwithstanding the same, no action has been taken by the authorities to restore the land belonging to the school, thus causing enormous prejudice to the interest of the teachers, students as well as the public of the local area at large.

Mr. Borah, on the other hand, has refuted the submissions made by the learned counsel for the petitioner by contending that after the institution of the writ petition the matter has been sorted out whereafter, it was found that the respondent No.6 is in occupation of private patta land whereas the school is standing over the land originally allocated to it. Under the circumstances, Mr. Borah submits that no further enquiry in the matter is called for.

The learned Standing Counsel for the Education Department is present and submits that he has no instruction in the matter.

Since the core controversy involved in the writ petition pertains to identity of a

plot of land and also the status of the occupant over the land, the same would raise disputed question of facts, which cannot be adjudicated in a writ proceeding. As such, without commenting on the merits of the claims and counter-claims made by the petitioner as well as the respondent No.6, this writ petition is being disposed of by directing the respondent No.2 i.e. the Director of Elementary Education, Assam, Kahilipara to cause an enquiry in the matter, either by himself or through any competent officer of his choice, so as to ascertain as to whether, the school is operating from the land which was originally allotted to it. On completion of such enquiry, if it is found that the school has been dispossessed/deprived of the land allocated to it, the respondent No.2 shall pass appropriate order restoring the possession of the school over the land meant for it. However, before passing any such order, the respondent No.6 be also given an opportunity of being heard in the matter. The aforesaid exercise be carried out and completed within a period of 12 weeks from the date of receipt of a certified copy of this order. With the above observation, the writ petition stands disposed of.

JUDGE

Comparing Assistant