

GAHC010182802023



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

Case No. : WP(C)/4913/2023

PRATAP CHANDRA DAS AND 5 ORS.
S/O- LATE RAM CHANDRA DAS, R/O- VILL.- BANGNABARI, P.O.
KATHALBARI, DIST. NALBARI, ASSAM, PIN- 781346.

2: HITESH HAZARIKA
S/O- LATE HARI HAZARIKA
R/O- VILL.- BANGNABARI
P.O. KATHALBARI
DIST. NALBARI
ASSAM
PIN- 781346.

3: KULEN BARMAN
S/O- LATE HEMKANTA BARMAN
R/O- VILL.- KODOMTOLA
P.O. BARAMA
DIST. NALBARI
ASSAM
PIN- 781346.

4: UMESH BARMAN
S/O- LATE BIRAHU RAM BARMAN
R/O- VILL.- PUB-BRAJAR
P.O. BARAMA
DIST. NALBARI
ASSAM
PIN- 781346.

5: KESHAB RAJBONGSHI
S/O- LATE RABI RAM RAJBONGSHI
R/O- VILL.- BANGNABARI
P.O. KATHALBARI
DIST. NALBARI
ASSAM

PIN- 781346.

6: HARIHAR DAS
S/O- SRI DEBENDRA DAS
R/O- VILL.- BANGNABARI
P.O. KATHALBARI
DIST. NALBARI
ASSAM
PIN- 781346

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION DEPARTMENT, DISPUR,
GUWAHATI, PIN- 781006.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
PIN- 781019.

3:THE DISTRICT LEVEL COMMITTEE
AMALGAMATION/MERGER OF SCHOOLS
NALBARI DISTRICT
REPRESENTED BY ITS MEMBER SECRETARY
INSPECTOR OF SCHOOLS
NALBARI DISTRICT CIRCLE
NALBARI
PIN- 781335.

4:THE INSPECTOR OF SCHOOLS

NALBARI DISTRICT CIRCLE
NALBARI
RAY BARUAH COMPLEX
COLLEGE ROAD
NALBARI
PIN- 781335.

5:THE SCHOOL MANAGEMENT AND DEVELOPMENT COMMITTEE
SWAHID LOHIT PATHAK CHANI RABHA HIGH SCHOOL
PUB BARJAR
REPRESENTED BY ITS PRESIDENT
P.O. BARAMA
DIST. NALBARI
PIN- 781346.

6:THE HEAD MASTER
SWAHID LOHIT PATHAK CHANI RAM RABHA HIGH SCHOOL
PUB BARJAR
P.O. BARAMA
DIST. NALBARI
PIN- 781346

Advocate for the Petitioner : MR. T DEURI

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 28.08.2023

Heard Mr. T. Deuri, learned counsel for the petitioners and Mr. B. Kaushik, learned counsel for the respondents in the Education Department.

2. The petitioners before the Court are the guardians of the students of Swahid Lohit Pathak Chani Ram Rabha High School which is located at Pub Barjar, P.O. Barama in the Nalbari district. They are aggrieved by the order of amalgamation dated 05.08.2023 of the Inspector of Schools, NDC, Nalbari, by which Swahid Lohit Pathak Chani Ram Rabha High School was amalgamated with Gohain Kamal High School which is located at village Kathalbari also in the Nalbari district. The grievance raised by the petitioners is that the infrastructural facilities available at Swahid Lohit Pathak Chani Ram Rabha High School are comparatively better than the infrastructural facilities available at Gohain Kamal High School.

3. According to the petitioners as per Clause 15(a) of the Scheme of Amalgamation dated 03.08.2021, the school having good infrastructural facilities together with an amiable academic atmosphere and proper road connectivity in

comparison to the other shall be the base school. In the instant case by the impugned order of amalgamation dated 05.08.2023, Gohain Kamal High School had been made the base school by ignoring the better infrastructural facilities as well as more amiable academic atmosphere and better road connectivity which are available in respect of the petitioners' school Swahid Lohit Pathak Chani Ram Rabha High School.

4. We have been pointed out that in respect of an order of amalgamation of the Director, if any of the schools have any grievance, the remedy thereof would be to make an appeal before the Government in the Secondary or the Elementary Education Department, as the case may be.

5. In the instant case, in view of the provisions of Clause 19 of the Scheme of Amalgamation dated 03.08.2021, the petitioners' school to submit an appeal before the Secretary to the Government of Assam in the Secondary Education Department bringing in the detailed facts which may lead to a conclusion that the infrastructural facilities as well as the existence of amiable academic atmosphere and proper road connectivity in respect of Swahid Lohit Pathak Chani Ram Rabha High School is better in comparison with that of Gohain Kamal High School. Upon such appeal being made, the Secretary to the Government of Assam in the Secondary Education Department shall also issue notice to the Gohain Kamal High School for their response.

6. Upon doing the needful and after making a proper evaluation as regards the existence of good infrastructural facilities together with an amiable academic atmosphere and proper road connectivity in respect of the two schools, a reasoned order be passed as to which of the schools should be the base school in respect of the amalgamation effected by the impugned order dated 05.08.2023. The appeal be submitted by the petitioners within a period of

fifteen days from today and upon the said appeal being submitted, the Secretary to pass a reasoned order within a period of three months from date of receipt of the appeal.

Writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant