

GAHC010190422023



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

Case No. : WP(C)/5040/2023

SCHOOL MANAGING COMMITTEE OF DAKSHIN BARJAR L.P SCHOOL AND
ANR

REP. BY ITS PRESIDENT NAMELY MD. MAJNUR HAQUE,
S/O- LATE MAFIZ ALI,
VILL- DIPTA,
P.O- SURADI,
P.S- NALBARI, DIST- NALBARI, ASSAM, PIN-781340

2: LABANYA BARMAN
HEAD TEACHER OF DAKHIN BARJAR L.P SCHOOL

R/O- VILL- BHOGPUR
P.O- BARMA
P.S- BARMA
DIST- BAKSA
ASSAM
PIN-78134

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, SCHOOL
EDUCATION DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA

GUWAHATI-19.

4:THE INSPECTOR OF SCHOOLS
NALBARI DISTRICT CIRCLE

P.O
P.S AND DISTRICT- NALBARI
ASSAM
PIN-781335

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NALBARI
P.O
P.S AND DIST- NALBARI
PIN-781335

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
PUB NALBARI EDUCATION BLOCK

DIST- NALBARI
PIN-78133

Advocate for the Petitioner : MR. A M S MAZUMDER

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

30.08.2023

Heard Mr. AMS Mazumder, learned counsel for the petitioners. Also heard Mr. B Kaushik, learned counsel for the respondents in the Elementary Education Department as well as the Secondary Education Department, Government of Assam.

2. The petitioner being the School Managing Committee of Dakshin Barjhar

L.P. School is aggrieved by the decision of the respondent authorities by the order dated 24.07.2023 to have Dakhin Barjar LP School merged with Borjhar High School. Mr. AMS Mazumder, learned counsel by referring to the scheme for amalgamation firstly submits that a merger can take place only in respect of schools, which are allotted in the same campus by referring to Clause 7 of the scheme. But *prima facie*, it appears that the said contention may not be applicable *inasmuch as*, Clause 7 provides that the merger can be effected in respect of schools situated in the same campus or nearby area, which means, that even school is located in the nearby area can be amalgamated.

3. The other contention of Mr. AMS Mazumder, learned counsel for the petitioner is that as per Clause 13 of the scheme, two or more LP schools can be merged only when they are located in a radius of 1 kilometer and the school does not have more than 100 students each. However, it is contended by Mr. B Kaushik, learned counsel for the Education Department that the said clause is applicable only when the amalgamation is between two or more LP schools, but in the present case, it is an amalgamation of a LP school with a High school. Mr. AMS Mazumder, learned counsel further submits that the two schools, in question, are separated by a busy road in between, and, therefore, if a merger takes place, the students may have to run across from one part of the school to the other part after the amalgamation and may be exposed to the risk of crossing the roads. If that is so, we are of the view that it may be a grievance on the part of the writ petitioners and for the purpose of grievance, there is a provision under Clause 19 of the said scheme wherein the aggrieved Institution or public may make an appeal before the Government in the Elementary Education or Secondary Education Department.

4. In view of the provisions under Clause 19 of the Scheme, the petitioner Institute may file an appeal before the Government in the Secondary or Elementary Education Department bringing the grievance to the notice of the authorities that as the two schools would be separated by a busy road, the children may be exposed to the risk of crossing the road. Upon such appeal being filed, the Government to pass a reasoned order within a period of two months from the date of receipt of the appeal.

5. Till the reasoned order is passed by the Government, upon the appeal being filed within a period of two months from the date of submission of the appeal, as ordered above, status-quo on the amalgamation be maintained. On the other hand, if no appeal is filed by the petitioner within a period of 15 days from today, the interim order shall no longer hold good.

6. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant