

GAHC010086572021



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

Case No.: WP(C)/53/2021

AKTARA BEGUM AND 23 ORS
W/O- ZAKIR HUSSAIN
R/O-HAIDUBI
P.S- BATADRAVA
DIST- NAGAON
ASSAM. VICE PRESIDENT OF SCHOOL MANAGING COMMITTEE

2: NURUZ ZAMAL
S/O- LATE HAZRAT ALI
R/O- HAIDUBI
P.S- BATADRAVA
DIST- NAGAON
ASSAM. MEMBER OF SHOOOL MANAGING COMMITTEE.

3: WAKIL UDDN
S/O-LATE AZIMUDDIN
R/O- RAMPUR SATRA
P.S- BATADRAVA
DIST- NAGAON
ASSAM. MEMBER OF SCHOOL MANAGING COMMITTEE

4: AIZUL HAQUE
R/O- HAIDUBI
P.S- BATADRAVA
DIST- NAGAON
ASSAM.

5: RUHUL AMIN
S/O- LATE ABDUL HASEN
R/O- HAIDUBI
P.S- BATADRAVA
DISTRICT- NAGAON
ASSAM.

6: FARIZUL ISLAM
S/O-ABDUL AZID
R/O-HAIDUBI
P.S- BATADRAVA
DISTRICT- NAGAON
ASSAM.

7: ABDUL KHALIK
S/O- LATE HASEN ALI
R/O- HAIDUBI
P.S- BATADRAVA
DIST- NAGAON
ASSAM.

8: ABDUL BAREK
S/O-SAMAR ALI
R/O- HAIDUBI
P.S- BATADRAVA
DIST- NAGAON
ASSAM.

9: ABU BAKKAR SIDDIQUE
S/O-ABDUL MAJID
R/O- HAIDUBI
R/O- RAMPUR SATRA
P.S- BATADRAVA
DIST- NAGAON
ASSAM.

10: KHURSED ALOM
S/O- ABUL KALAM
R/O- RAMPUR SATRA
P.S- BATADRAVA
DIST- NAGAON
ASSAM.

11: NAJIMUDDIN
S/O- ABDUL MUTALIB
R/O- HAIDUBI
P.S- BATADRAVA
DIST- NAGAON
ASSAM.

12: MAHAR ALI
S/O ABBUS ALI
R/O- RAMPUR SATRA
P.S- BATADRAVA
DIST- NAGAON

ASSAM

13: MAZID
S/O- LATE AKALIA SHEK
R/O- RAMPUR SATRA
P.S- BATADRAVA
DIST- NAGAON
ASSAM.

14: ABUL KALAM
S/O- LATE SAMAR ALI
R/O- RAMPUR SATRA
P.S.- BATADRAVA
DIST- NAGAON
ASSAM.

15: NAJRUL ISLAM
S/O- ABED ALI
R/O- RAMPUR SATRA
P.S- BATADRAVA
DIST- NAGAON
ASSAM.

16: ABU TALIB
S/O ABDUL KADIR
R/O- RAMPUR SATRA
P.S- BATADRAVA
DIST- NAGAON
ASSAM.

17: KHAIRUL ISLAM
S/O- ABDUL GONI
R/O- RAMPUR SATRA
P.S. BATADRAVA
DIST- NAGAON
ASSAM.

18: SANGSER ALI
S/O- ABBUS ALI
R/O- HAIDUBI
P.S.- BATADRAVA
DIST- NAGAON
ASSAM.

19: ASMINA KHATUN
W/O- LATE ABUL HUSSAIN
R/O- HAIDUBI
P.S. BATADRAVA

DIST.- NAGAON
ASSAM.

20: MAINUL HOQUE
S/O- LATE SAMSUDDIM
R/O- HAIDUBI
P.S. BATADRAVA
ASSAM.

21: AFAZ UDDIN
S/O- MAMUD ALI
R/O- RAMPUR SATRA
P.S. BATADRAVA
DIST.- NAGAON
ASSAM.

22: TAFAS UDDIN
S/O- MAMUD ALI
R/O- RAMPUR SATRA
P.S. BATADRAVA
DIST.- NAGAON
ASSAM.

23: NABI HUSSAIN
S/O- ABDUL ZABBAR
R/O- HAIDUBI
P.S. BATADRAVA
DIST.- NAGAON
ASSAM.

24: ABUL KALAM
S/O- ABDUL KARIM
R/O- HAIDUBI
P.S. BATADRAVA
DIST.- NAGAON
ASSAM.
VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF EDUCATION (ELEMENTARY) DISPUR
GUWAHATI-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

NAGAON
ASSAM.
4:THE BLOCK ELEMENTARY EDUCATION OFFICER
BATADRAVA
NAGAON ASSAM.
5:SAFIQUL HOQUE CHOUDHURY
HEAD MASTER
C/O- BLOCK ELEMENTARY EDUCATION OFFICER
BATADRAVA
P.O. AND P.S. BATADRAVA
NAGAON ASSAM PIN- 782122.

Advocate for : MR H GUPTA
Advocate for : SC
EDU appearing for THE STATE OF ASSAM AND 4 ORS

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

20.04.2023

Heard Mr. H. Gupta, the learned counsel for the petitioners and Mr. B. Talukdar, the learned counsel appearing on behalf of the respondent Nos.1 to 4.

2. The petitioners before this Court are members belonging to the Managing Committee of Haidubi Rampur Satra Boys MEM as well as the guardians of the students of the locality who had submitted representations to the respondent authorities on 01.02.2020 and 30.08.2020 with a prayer not to allow the respondent No.5 to join the said school who was transferred by the Director of Elementary Education Department, Assam vide an order dated 22.01.2020.

3. The allegation so made as would appear from a perusal of the representation dated 01.02.2020 is that the respondent No.5 is involved to massive corruption and misconduct for which the respondent No.5 was

transferred from one school to another. It was alleged in the representation that the respondent No.5 was involved in massive corruption and illegality in regard to finance and mid-day meal for which the respondent No.5 was transferred. The said representation was submitted to the District Elementary Education Officer, Nagaon. Subsequent thereto, after a passage of almost 7 months, another representation was submitted with a prayer not to give effect to the order of transfer dated 22.01.2020 and to transfer the respondent No.5 to any other school.

4. This Court made a specific query upon the learned counsel appearing on behalf of the petitioners as to what is the basis on which the allegation has been made in the representation. The learned counsel for the petitioners has drawn the attention of this Court to a News Article published in a Daily Newspaper on 18th of June, 2019. As the reasons behind submission of the representation were on the basis of an unverified Newspaper Article, this Court finds no reason to issue a mandamus upon the respondent authorities to conduct any enquiry or to consider the representation submitted by the petitioners.

5. At this stage, this Court finds it relevant to take note of that the instant writ petition is listed along with another writ petition today, i.e. WP(C) No.2965/2021. The said writ petition was filed by one Ali Azam Hussain, the existing Headmaster of the said school. Noteworthy to mention that in both the writ petitions, the lawyers happens to be the same. Vide the order dated 12.01.2020, issued by the Director of Elementary Education Department the respondent No.5 was brought in place of the said Ali Azam Hussain and this very person, namely, Ali Azam

Hussain has categorically mentioned in paragraph No.10 of the writ petition that the respondent No.5 never joined in the school and in fact he was not allowed to join in the school by the Managing Committee of the School for his past bad records wherefrom he was transferred from the said school. In paragraph No.10 of the said writ petition, it was further mentioned that the transfer and joining of the respondent No.5 was sub-judiced before this Court in the present writ petition and this Court vide an order dated 12.01.2021 had directed to maintain status-quo.

6. From the above, therefore, it would be seen that not only the entire case of the petitioners herein is based upon an unverified News Article but it also appears not to be bonafide and seems to be done at the behest of the existing Headmaster of the school. Under such circumstances, this Court is not inclined to issue the prerogative writ of mandamus directing the respondent authorities to consider the representation and conduct an enquiry as regards the allegation made against the respondent No.5 in the present facts and circumstances of the case.

7. In that view of the matter, the instant writ petition, therefore, stands dismissed.

8. The interim order passed on 12.01.2021 stands vacated.

9. Before parting with the record, this Court however observes that the respondent authorities shall take such appropriate steps as deemed necessary in the interest of the said school.

JUDGE