

GAHC010194982021



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

Case No. : WP(C)/6761/2021

ASHOK KUMAR CHOUDHURY
S/O LATE ANIL KR. CHOUDHURY
HEADMASTER, GASHBARI HIGH SCHOOL, KAMRUP, RESIDENT OF
VILLAGE AND PO MUKALMUA, DIST NALBARI, ASSAM 781126

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM. EDUCATION (SECONDARY) DEPARTMENT, DISPUR,
GUWAHATI 06

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
ASSAM 781019

3:THE INSPECTOR OF SCHOOLS
KAMRUP DISTRICT CIRCLE
AMINGAON
ASSAM
781031

4:SRI BHUPEN BORO
ASSTT
TEACHER
GASHBARI HIGH SCHOOL
GASHBARI
DIST KAMRUP
ASSAM 781366

5:THE SCHOOL MANAGEMENT AND DEVELOPMENT COMMITTEE
GASHBARI HIGH SCHOOL

REPRESENTED BY ITS PRESIDENT
ASSTT
TEACHER
GASHBARI HIGH SCHOOL
GASHBARI
DIST KAMRUP
ASSAM 78136

Advocate for the Petitioner : MR. A K DUTTA

Advocate for the Respondent : SC, SEC. EDU.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

02-02-2023

Heard Mr. B. Purkayastha, learned counsel for the petitioner and Mr. U. Sarma, learned Standing Counsel, Department of School (Secondary) Education for the respondent Nos. 1 to 3. Also heard Mr. S. Hazarika, learned counsel for the respondent Nos. 4 and 5.

On recommendation of the State Selection Board and on approval of the State Government in the Secondary Education Department vide letter No.ASE.611/2020/228 dated 15.02.2021 the Director of Secondary Education, Assam by an order under No.GB-EST/Apptt(HM & AHM)/18/2019/9 dated 11.05.2021 promoted the petitioner to the post of regular Headmaster in the Scale of Pay of Rs.22,000/- to 97,000/- with Grade Pay of Rs.11,800/- in Pay Band-3 plus other allowances as admissible as per Rules against the existing vacant post of Headmaster of Gashbari High School (hereinafter referred to as said High School) in the District of Kamrup.

With regard to said promotion of the petitioner to the post of regular Headmaster of said Gashbari High School, the President of the SMDC of said School and its in-charge Headmaster, respondent Nos. 4 and 5 respectively, filed their complaints against the petitioner before the Director of Secondary Education, Assam on 21.06.2021. The

petitioner also filed an application before the Director of Secondary Education, Assam on 22.06.2021 stating that the respondent Nos. 4 and 5 did not allow him to join as Headmaster in the said High School.

The respondent Nos. 4 and 5 as petitioners Nos. 2 and 1 respectively, preferred a writ petition, being WP(C) No. 3292/2021 challenging the order dated 11.05.2021 of the Director of Secondary Education, Assam promoting the present petitioner, respondent No.4 therein, as Headmaster of the said High School and also prayed for a direction to the respondent authorities to make a detail independent enquiry with regard to the conduct and behavior of the petitioner along with interim prayer to stay the said order dated 11.05.2021 issued by the Director of Secondary Education, Assam promoting the petitioner to the regular post of Headmaster in said High School.

In said WP(C) No. 3292/2021, the Court did not pass any interim order staying the operation of the order dated 11.05.2021 issued by the Director of Secondary Education, Assam promoting the petitioner to the post of Headmaster of said High School, nor restrained him from joining the said High School as its regular Headmaster inspite of the prayers made by the respondent Nos. 4 and 5.

Petitioner filed this writ petition on 17.11.2021 praying for a direction to the respondents herein to allow him to serve as regular Headmaster of said High School as per the order dated 11.05.2021 of the Director of Secondary Education, Assam as well as to accept his joining from 30.06.2021.

Earlier, on 02.03.2022 the Court in WP(C) No.3292/2021 preferred by the Managing Committee of the said School along with its in-charge Headmaster passed an order directing the School Management and Development Committee of said High School to ensure that the petitioner of WP(C) No. 6761/2021 i.e., Ashok Kumar Choudhury was given the charge of the Headmaster of the said High School in terms of the order of the Director of Secondary Education, Assam dated 11.05.2021 considering the fact that there is no interim order in force restraining the present petitioner to join the post of regular Headmaster of said High School with the direction to list this matter after 10 (ten) days.

During the deliberation of the matter, it is placed before the Court that the in-charge Headmaster of said High School retired from service on 31.01.2023 on attaining the age of superannuation at 60 years. Further, the petitioner, Ashok Kumar Choudhury has now been handed over the charge of regular Headmaster of said High School in terms of the order dated 11.05.2021 of the Director of Secondary Education, Assam.

Since, the respondent Nos. 4 and 5 restrained the petitioner from serving as regular Headmaster of said High School pursuant to the order dated 11.05.2021 issued by the Director of Secondary Education, Assam though he joined the said School on 30.06.2021, the petitioner could not function as a regular Headmaster of the said High School as no charge was handed over to him.

Mr. Purkayastha, learned counsel for the petitioner submitted that the petitioner has now been handed over the charge of regular Headmaster of said High School.

Considering the entire aspect of the matter, this writ petition is disposed of with a direction that the petitioner shall be allowed to serve as a regular Headmaster of said Gashbari High School in terms of the order dated 11.05.2021 issued by the Director of Secondary Education, Assam accepting his date of joining in the said post w.e.f., 30.06.2021.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant