

GAHC010202162023



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

Case No. : WP(C)/5310/2023

SAIFUL ISLAM AND ANR
S/O- AINAL HOQUE, R/O- VILL.- MONAKOSA, P.S. KALGACHIA, DIST.
BARPETA, ASSAM

2: AJGAR ALI
S/O- LATE RAHMAT ALI
R/O- VILL.- MONAKOSA
P.S. KALGACHIA
DIST. BARPETA
ASSA

VERSUS

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

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

3:THE INSPECTOR OF SCHOOLS

B.D.C.
BARPETA.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BARPETA
ASSAM

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
BARPETA
ASSA

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY
ORDER

15.09.2023

1. Heard Mr. S. Borthakur, learned counsel for the petitioners. Also heard Mr. G. Pegu, learned Standing Counsel for the Elementary Education Department representing the respondent Nos. 1, 2 and 3 and Mr. P. Saikia, learned Government Advocate for the respondent Nos. 4 and 5.
2. The present writ petition is filed under Article 226 of the Constitution of India raising a grievance against notification dated 21.07.2023, proposing to amalgamate/merge one Rahmat Prathamik Vidyalaya, Monakosa, Barpeta with 276 No. Monakosa L.P. School under the Siksha Khetra Scheme.
3. The basic grievance of the petitioners is that the said 276 No. Monakosa L.P. School is having no land in its name and the School lacks sufficient infrastructure, toilet and playground etc., whereas, the present School i.e. Rahmat Prathamik Vidyalaya, Monakosa, Barpeta has all the facilities mentioned above.
4. It is the further case of the petitioners that if the amalgamation/merger is allowed, the distance to the school for the neighborhood pupils will be

2.5 KM, which will be in derogation of the Section 6(1)(a) of the Right of Children to Free and Compulsory Education Rules, 2010.

5. Mr. Borthakur, learned counsel for the petitioners, however, submits that in the meantime, the Government of Assam in the School Education Department issued a notification being E-225754/1 dated 10.09.2022, whereby a Committee has been constituted for consideration of the grievances of such dispute regarding amalgamation/merger and the said Committee has been authorized to determine the re-verification and the committee has been named as "Amalgamation/Merger Committee" and the petitioners have already filed a representation before the said Committee.
6. Accordingly, Mr. Borthakur, learned counsel submits that as already a Committee has been constituted by the Government, if the present writ petition is disposed of directing the aforesaid Committee also to consider the representation filed by the petitioners, the petitioners shall have no grievance to be raised in the present writ petition subject to however the final decision of the said Committee.
7. Mr. G. Pegu, learned Standing Counsel for the Elementary Education Department submits that he will have no objection, if the writ petition is disposed of by relegating the entire matter to the Committee (supra) constituted by the Government.
8. In view of the aforesaid consensus, the present writ petition is disposed of allowing the present writ petitioners to approach the Committee constituted under order dated 10.09.2022 (supra) within a period of seven days from the date of receipt of the certified copy of this order and on

being approached, the Committee shall consider the same within a period of 4 weeks thereafter and consider the grievances raised by the petitioners.

9. Considering that the Government itself has constituted a Committee for re-verification and the petitioners have already approached the said Committee, in the interest of justice, it is provided that till the Committee takes a decision within the aforesaid period, the present status of both the Schools, i.e. Rahmat Prathamik Vidyalaya, Monakosa, Barpeta and 276 No. Monakosa L.P. School shall be maintained. It is needless to say that the petitioners shall be at liberty to approach appropriate forum, if such decision goes against them.
10. With the aforesaid observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant