

GAHC010049032023



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

WP(C)/6796/2022

WAJ UDDIN AND 4 ORS
HEAD MASTER I/C OF RAMPUR CHALAPATHAR SAHID ALI HIGH SCHOOL
S/O- SAMED ALI
VILL- RAMPUR SATRA
CHALAPATHAR
P.O. CHALAPATHAR
P.S. BATADRAVA
DIST.- NAGAON
ASSAM
PIN- 782122.

2: HAFIJUR RAHMAN
S/O- KHADIBUR RAHMAN
VILL- RAMPUR SATRA
CHALAPATHAR
P.O. CHALAPATHAR
P.S. BATADRAVA
DIST.- NAGAON
ASSAM
PIN- 782122.

3: BABUL ISLAM
S/O- HUSSAIN ALI
VILL- RAMPUR SATRA
CHALAPATHAR
P.O. CHALAPATHAR
P.S. BATADRAVA
DIST.- NAGAON
ASSAM
PIN- 782122.

4: ABDUL RAFIK
S/O- MAHAMMAD ALI
VILL- RAMPUR SATRA
CHALAPATHAR

P.O. CHALAPATHAR
P.S. BATADRAVA
DIST.- NAGAON
ASSAM
PIN- 782122.

5: REHANA KHATUN
D/O- KAJBUR RAHMAN
VILL- RAMPUR SATRA
CHALAPATHAR
P.O. CHALAPATHAR
P.S. BATADRAVA
DIST.- NAGAON
ASSAM
PIN- 782122.

VERSUS

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

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

3:THE DEPUTY COMMISSIONER
NAGAON
ASSAM
PIN- 782001.

4:THE INSPECTOR OF SCHOOLS
NDC
NAGAON
ASSAM
PIN- 784125.

5:ABU JAFAR SIDDIQUE
S/O- LT ABUL HUSSAIN
VILL- KADAMONI GAON
CHALAPATHAR
P.O. KADAMONI
P.S. BATADRAVA
DIST.- NAGAON
ASSAM

PIN- 782122.

6:NAJRUL ISLAM
S/O- LT NUR ISLAM
VILL- RAMPUR SATRA
CHALAPATHAR
P.O. CHALAPATHAR
P.S. BATADRAVA
DIST.- NAGAON
ASSAM
PIN- 782122.

Advocate for : MR MONZUR K CHOUDHURY
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 5 ORS

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

19.07.2023

O R D E R

Heard Mr. M.H. Choudhury, learned counsel for the petitioner. Also heard Mr. S.R. Baruah, learned Government Advocate, Assam for respondent Nos.1 and 3; Mr. U. Sharma, learned Standing Counsel, Secondary Education Department, Government of Assam for respondent Nos. 2 and 4 as well as Mr. A. Deka, learned counsel for respondent Nos.5 and 6.

2. This writ petition has been filed challenging the validity of the communication dated 08.09.2022 issued by the Inspector of Schools, NDC, Nagaon by which respondent Nos.5 and 6 were nominated as President and Vice President of the new School Management and Development Committee (SMDC) of Rampur Chalapather Sahid Ali High School on the ground that in terms of the Notifications dated 27.06.2016 and 27.10.2021 issued by the Secondary Education Department, Government of Assam, the Inspector of Schools, NDC, Nagaon has no authority to nominate the President and Vice-President of the said School.

3. The Secretary to the Government of Assam, Secondary Education Department, issued a notification dated 27.06.2016 whereby the criteria for selection of the

President and Vice-President of SMDC of Junior Colleges/Higher Secondary Schools/High Schools/High Madrassas have been enumerated. Further, the notification dated 27.06.2016 also prescribes the selection process for President and Vice-President of the SMDC. In the said notification, it is provided that the Inspector of Schools, after consultation with the Principal/Head Master and local people, will forward two names to the Director, Secondary Education, Assam for each President and Vice-President with the recommendation of the Deputy Commissioner within a period of 30 days. After considering the names, Director, Secondary Education, Assam will provide the list to the Government with his comment for selecting a single name after comparing data of both the candidates and then Government will approve the Committee.

The said selection process of President and Vice-President of the SMDC prescribed in the Notification dated 27.06.2016 was modified by another Notification dated 27.10.2021 issued by the Principal Secretary to the Government of Assam, Secondary Education Department whereby the Deputy Commissioner is empowered to select the President and Vice-President of the SMDC of an educational institution of the concerned district with the approval of the Guardian Minister.

4. The impugned communication dated 08.09.2022 was issued after issuance of the Notification dated 27.10.2021. Nothing is produced before this Court by the learned Standing Counsel, Secondary Education Department, Government of Assam to show that Inspector of Schools, NDC, Nagaon has the authority to nominate the President and Vice-President of the new SMDC of Rampur Chalapather Sahid Ali High School.

5. In fact, a perusal of the notification dated 27.10.2021 clearly prescribes that it is the Deputy Commissioner who is empowered to select the President and Vice-President of SMDC of an educational institution of the concerned district with approval of the Guardian Minister.

6. In the present case, the communication dated 08.09.2022 is clearly in contravention with the Notification dated 27.10.2021 and, accordingly, the said communication dated 08.09.2022 issued by the Inspector of Schools, NDC, Nagaon nominating the respondent No.5 and 6 as President and Vice-President of the new SMDC of Rampur Chalapather Sahid Ali High School is set aside and quashed.

7. The matter is now remanded to the Deputy Commissioner, Nagaon to carry out the process for nomination of the President and Vice-President of the new SMDC of Rampur Chalapather Sahid Ali High School in accordance with the provisions of the Notification dated 27.06.2016 as well as the Notification dated 27.10.2021. Let such nomination of the President and Vice-President of the new SMDC of Rampur Chalapather Sahid Ali High School be completed within a period of two months from the date of receipt of a copy of this order. While considering the matter, the claims of respondent Nos.5 and 6 may also be considered.

8. With the aforesaid observations and directions, the writ petition is disposed of.

JUDGE

Comparing Assistant