

GAHC010213552023



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

Case No. : WP(C)/5592/2023

LAL CHAN MONDAL
S/O KHALILUR RAHMAN, HEAD TEACHER OF SAKTOLA, KHONAR PUB-
PAR L.P. SCHOOL, P.O.-AOLATOLI, DIST- GOALPARA, PIN-783121

VERSUS

THE STATE OF ASSAM AND 12 ORS.
REPRESENTED BY ITS COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, FINANCE DEPARTMENT, 3RD FLOOR, CHIEF MINISTERS
BLOCK, JANATA BHAWAN, DISPUR, GUWAHATI-781006

2:THE CHIEF COMMISSIONER
PRANAM COMMISSION
PAN BAZAR
GUWAHATI-781001

3:THE COMMISSIONER OF LOWER ASSAM DIVISION
OFFICE OF THE LOWER OF ASSAM DIVISION
PANBAZAR
GUWAHATI-781001

4:THE DEPUTY COMMISSIONER
DIST-GOALPARA
P.O. AND P.S.-GOALPARA
PIN-783331

5:THE ADDL. DEPUTY COMMISSIONER (EDUCATION)
DIST-GOALPARA
P.O. AND P.S.-GOALPARA
PIN-783331

6:THE DIRECTOR

ELEMENTARY EDUCATION
ASSAM
DEPARTMENT OF EDUCATION
GOVT. OF ASSAM
KAHILIPARA
GUWAHATI-781009

7:THE DISTRICT ELEMENTARY EDUCATION OFFICER
GOALPARA
P.O. AND P.S.-GOALPARA
PIN-783331

8:THE BLOCK ELEMENTARY EDUCATION OFFICER
LAKHIPUR
GOALPARA-783329

9:THE TREASURY OFFICER
GOALPARA
P.O. AND P.S.-GOALPARA
PIN-783331

10:KHALILUR RAHMAN
S/O LATE KANU MONDAL
R/O VILL- KHONAR PUB PAR
P.O.-AOLATOLI
P.S.-BAGUAN
DIST- GOALPARA
ASSAM
PIN-783331

11:FUMERA KHATUN
W/O ABDUL RAZZAK
R/O VILL- KHONAR PUB PAR
P.O.-AOLATOLI
P.S.-BAGUAN
DIST- GOALPARA
ASSAM
PIN-783331

12:MANIZA KHATUN
W/O IBRAHIM ALI
R/O VILL- KHONAR PUB PAR
P.O.-AOLATOLI
P.S.-BAGUAN
DIST- GOALPARA
ASSAM
PIN-783331

13:NAZIYA KHATUN
W/O RAFIK ALI
R/O VILL- KHONAR PUB PAR
P.O.-AOLATOLI
P.S.-BAGUAN
DIST- GOALPARA
ASSAM
PIN-78333

Advocate for the Petitioner : MR P DAS

Advocate for the Respondent : SC, FINANCE

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

27.09.2023

Heard Mr. P Das, learned counsel for the petitioner, Mr. B Kaushik, learned counsel for the respondents in the Elementary Education Department, Mr. B Gogoi, learned counsel for the respondents in the Finance Department and Mr. P Saikia, learned Junior Government Advocate for the Deputy Commissioner. Considering the order proposed to be passed, no notice is required to be issued to the respondents No. 10 to 13.

2. The writ petitioner Lal Chan Mondal is the Head Teacher of Saktola Khonar Pub Par Lower Primary School in the Goalpara district. It is stated that the father of the writ petitioner namely respondent No. 10 Khalilur Rahman was earlier residing with him, but later on, shifted out of the residence of the petitioner and in turn claimed for the benefits under section 8 of the Assam Employees' Parent Responsibility and Norms for Accountability and Monitoring Act, 2017 (in short PRANAM Act, 2017). Pursuant thereto, the District Elementary Education Officer, Goalpara who is the designated authority under

the PRANAM Act, 2017, had passed the order dated 29.11.2022 requiring the petitioner to pay 10% of his cross monthly pay to the respondent No. 10 Khalilur Rahman.

3. The preamble of the PRANAM Act, 2017 itself provides that the Act had been promulgated taking note that the respect and service to one's parents is the central obligation of children which is an integral part of Indian family system for ages, and that the emerging modern society, increased mobility and growth of nuclear families, instances of negligence of parents by their children have of late come to exist and re-kindling the family values. Accordingly, the Act was promulgated with the purpose to provide for an enforceable morality through a certain norms amongst the employees who neglect their dependent parents and divyang siblings, so that each and every employee would lead as a role model in the society.

4. The petitioner being aggrieved by the order dated 29.11.2022 had also instituted an appeal under section 123 of the PRANAM Act, 2017 before the Commissioner, Lower Assam Division.

5. In the writ petition, the petitioner raises two grievances, firstly, that the respondent No. 10 had voluntarily left the residence of the petitioner although he is all along willing to look after his father and secondly, the appeal that had been filed before the appellate authority had not been given its consideration.

6. Regarding the first grievance raised by the petitioner that he is willing to look after his father by requiring him to reside along with him in his own residence, we have taken note that the respondent No. 10 Khalilur Rahman, who is the father of the petitioner had filed a criminal petition before the Executive Magistrate, Goalpara wherein in respect of a plot of land owned by

the father, there is an allegation that the petitioner and the other siblings had threatened the father of being murdered and other dire consequences.

7. Without going into the veracity of such allegation, if there is an allegation by a father that the son is threatening him with murder and other dire consequences, it cannot be expected that the said father would comfortably go and reside with the son in the same residence. Prima-facie we do not find any material to support the case of the petitioner that although he is willing to have his father in his own residence, the father is voluntarily not coming and residing with him.

8. From such point of view, we do not notice any infirmity in the order of the designated authority allowing 10% of the gross salary of the petitioner in favour of his father. We also take note of the conduct and attitude of the petitioner by referring to paragraph 2 of the writ petition, wherein the respondent No. 10 is described to be an octogenarian and the father of four sons and three daughters, where the petitioner does not even have the minimum courtesy to recognize the respondent No. 10 as his father. The said approach also gives an indication of the mental approach of the petitioner towards his father having a bearing on the stand of the petitioner that he is willing to take back his father for residing along with him.

9. The petitioner has filed an appeal under section 12 of the PRANAM Act, 2017. It is taken note that although the appeal was filed before the Commissioner, Lower Assam Division, but it is stated that the said authority no longer exist and the powers which were earlier exercised by the Commissioner, Lower Assam Division is now being exercised by the Secretary to the Government of Assam in the GAD Department.

10 Accordingly, the appeal of the petitioner filed under section 12 of the PRANAM Act, 2017 may now be entertained by the GAD Department taking note of the facts as noticed and indicated above, on all other grounds other than the ground of the petitioner willing to have the respondent No. 10 father residing with him in his residence.

11. The writ petition is partly allowed on the second ground of the appeal being pending, but rejected on the first ground that the petitioner is willing to take back his father.

JUDGE

Comparing Assistant