

GAHC010220042023



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

Case No. : WP(C)/5755/2023

RAFIQUL HOQUE
IN CHARGE HEAD MASTER OF SAGUNMARI ME MADRASSA SAGUNMARI
PART I S/O LT. JALIL SHEIKH VILL. KADAMTOLA PART II P.O KADAMTOLA
DIST. DHUBRI ASSAM PIN-783348

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP BY THE SECRETARY TO THE GOVT. OF ASSAM DEPTT. OF SCHOOL
EDUCATION ELEMENTARY DISPUR GUWAHATI 6

2:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM
KAHILIPARA GUWAHATI 19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
P.O. DIST. DHUBRI ASSAM PIN 783301

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
BILASIPARA
P.O. BILASIPARA DIST. DHUBRI ASSAM PIN 783348

5:THE CHAIRMAN /ADDITIONAL DEPUTY COMMISSIONER
OF THE DISTRICT LEVEL COMMITTEE
DHUBRI P.O. DIST. DHUBRI ASSAM PIN 78330

Advocate for the Petitioner : MR. D A KAIYUM

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 21.12.2023

Heard Mr. D. A. Kaiyum, learned counsel for the petitioner. Also heard Ms. N. Phukan, learned standing counsel, Elementary Education Department, appearing on behalf of the respondents No. 1, 2, 3 & 4; and Ms. D. Das Barman, learned Addl. Sr. GA, appearing on behalf of respondent No. 5.

As consented to by the learned counsels appearing for the parties, the matter is taken-up for disposal.

The petitioner was initially appointed as a Science Teacher in Sagunmari ME Madrassa on 03.12.2007. Thereafter, his case was considered for provincialization of his services. Accordingly, the petitioner's services came to be provincialized vide order dated 05.02.2021. In the order of provincialization, the petitioner was required to join his services in Dr. Zakir Hussain Memorial ME Madrassa, which was identified as the base school.

The Base School as identified was not found to be convenient for the students of the Sagunmari ME Madrassa on account of the distance involved and also on account of the inferior infrastructure available in the Base School in comparison to that available at Sagunmari ME Madrassa. The local people, guardians of the students of the school objected to the decision identifying Dr. Zakir Hussain Memorial ME Madrassa, as the Base School. Such protest having emanated from various other schools, the Government of Assam in the Education Department issued order bearing No. ASE.73/2021/12 dated

18.02.2021, to constitute a District Level Committee and framed guidelines for identification of a proper Base School. The said District Level Committee was to examine the case of each school and identify an alternative Base School keeping in view of the guidelines mentioned in the Siksha Khetra Scheme.

It is stated at the Bar that the said District Level Committee had already done the scrutiny as required of it with regard to the school of the petitioner and a report has already been submitted to the authorities and the matter is presently pending consideration. The respondent authorities pending finalization of the recommendations of the said District Level Committee, had allowed the petitioner School to operate from the site it was so running before provincialization. Accordingly, the petitioner and other teachers continued to discharge their duties at the site where the said school existed on the date of its provincialization.

It is also stated by the parties that the said District Level Committee upon verification, had identified 1894 No. Sagunmari LP School as the base school in place of Dr. Zakir Hussain Memorial ME Madrassa, in-as-much as it is situated in the same campus as that of the petitioner's school.

The report of the District Level Committee has not been given its final consideration by the respondent authorities and in the meanwhile, the jurisdictional District Elementary Education Officer and Block Elementary Education Officer are insisting upon the employees of the school in question to attend their duties at Dr. Zakir Hussain Memorial ME Madrassa along with a threat of their pay and allowances being held up if they do not join. Hence, this writ petition.

It is seen that the petitioner by highlighting his grievances has approached the Secretary to the Government of Assam, Elementary Education Department, by way of filing a representation dated 02.09.2023 and the same is still pending disposal.

In view of the above; this writ petition is hereby disposed of by directing the Secretary to the Government of Assam, Elementary Education Department, to take on record the said representation as preferred by the petitioner and consider the same in the light of the recommendations that is available on record of the DLC constituted vide order dated 18.02.2021 and thereafter, to dispose of the same by way of passing a reasoned order.

The said representation be considered and disposed of within a period of 2(two) months from the date of receipt of a certified copy of this order. Till such consideration and disposal of the representation, dated 02.09.2023, is made, the employees of Sagunmari ME Madrassa be not insisted to join in Dr. Zakir Hussain Memorial ME Madrassa.

JUDGE

Comparing Assistant