

GAHC010226982021



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

Case No. : WP(C)/32/2022

KANAK DAS
S/O LATE NAGENDRA DAS,
RESIDENT OF VILLAGE MILAN PATH, DUDHNOI, PO AND PS DUDHNOI,
DIST GOALPARA, ASSAM 783124

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION SECONDARY DEPARTMENT, DISPUR, GUWAHATI
781006

2:THE DIRECTOR
SECONDARY EDUCATION
KAHILIPARA
GUWAHATI 781019

3:THE INSPECTOR OF SCHOOLS
GOALPARA DISTRICT CIRCLE
GOALPARA ASSAM

4:MRS. REZIA KHATUN
DEMONSTRATOR
W/O NUR BANX SK
RONGJULI H.S SCHOOL. GOALPARA
PO RONGJULI
DISTRICT GOALPARA
ASSAM
78312

Advocate for the Petitioner : MR H DAS

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
ORDER

08-02-2023

Heard Mr. H. Das, learned counsel for the petitioner and Mr. S.M.T. Chistie, learned Standing counsel, Department of School (Secondary) Education, Assam for the respondent Nos. 1 to 3. Also heard Mr. S. K. Das, learned counsel for the respondent No. 4.

The petitioner is a Science Graduate with B.Ed. Degree and has also obtained Master Degree in the subject of Education and since 03.01.1990 he is serving as an Assistant Teacher of Rangjuli Higher Secondary School, District- Goalpara, a provincialised Secondary School of the State.

The respondent No. 4 is also a Science Graduate with B.Ed. Degree and has obtained Master Degree who served as a Demonstrator in said school since 03.03.1988.

After the regular Principal of said Rangjuli H.S. School, District- Goalpara expired on 24.10.2018, the Director of Secondary Education, Assam vide order No. GB-EST/Apptt/FP/49/2017/90 dated 21.12.2018 allowed the respondent No. 4 to hold the charge of Principal in-charge of said school along with financial power to draw and disburse the salary etc. of the staff of said school in addition to her normal duties under F.R.49 (C) specifying that the same is purely temporary arrangement.

Being aggrieved with the said order dated 21.12.2018 allowing the respondent No. 4 to hold the charge of Principal in-charge of said school, the petitioner on 23.12.2021 filed this writ petition after more than 3 years challenging on the ground that the respondent No. 4 obtained her B.Ed. Degree from an institution which does not have the affiliation of the National Council for Teacher Education (NCTE) and that too without obtaining any prior permission from the concerned authority to pursue the B.Ed. course alleging that her said B.Ed. degree is doubtful and is in violation of Clause 4 of the Office Memorandum No. ASE.640/2017/150 dated 18.02.2021 issued by the Government of Assam in the Secondary Education Department.

Since the B.Ed. degree of the respondent No.4 as alleged by the petitioner is not at all valid, therefore, he prayed before the Court in this petition to allow him to hold the charge of Principal of

said Rangjuli H.S. School, Goalpara being the second senior most teacher of that school.

The respondent No. 4 filed her affidavit-in-reply in the matter on 28.09.2022 serving a copy of the same on the learned counsel for the petitioner stating that the respondent No. 4 being a student of B.Ed. degree in the year 1994, she obtained her B.Ed. degree in the year 1996 from Dudhnoi Teachers Training College, Dudhnoi, Goalpara under Gauhati University, which is valid.

Notice in this case was issued on 05.01.2022. But the respondent authorities in the Secondary Education did not file their affidavits in the matter till date.

During the deliberation of the matter, Mr. Chistie, learned Standing counsel, Department of School (Secondary) Education, Assam has placed before the Court a copy of the order No. GB-EST/Apptt/FP/12/2021/104 dated 30.01.2023 whereby the Director of Secondary Education, Assam allowed the petitioner to hold the charge of Principal of said Rangjuli H.S. School, District-Goalpara along with financial power to draw and disburse the salary etc. of the staff of said school in addition to his normal duties under F.R. 49 (C) as the respondent No. 4, in-charge Principal of said school shall retire on 31.01.2023 observing that the same is purely temporary arrangement and that the said order will be come into force w.e.f. 01.02.2023.

As the respondent No. 4 has already retired from service on attaining the age of superannuation at 60 years and the DSE, Assam by order dated 30.01.2023 allowed the petitioner to hold the charge of Principal of said Rangjuli H.S. School, District-Goalpara w.e.f. 01.02.2023 as noted above, this writ petition being infructuous, stands dismissed.

Copy of the order dated 30.01.2023 issued by the Director of Secondary Education, Assam placed before the Court today by Mr. S.M.T. Chistie, Department of School (Secondary) Education, Assam, be kept as a part of the record.

JUDGE

Comparing Assistant