

GAHC010264652022



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

Case No. : WP(C)/8327/2022

KURBAN ALI LP SCHOOL AND ANR
REP. BY ITS GUARDIAN MEMBER MIJAJUR RAHMAN, S/O. SAMSUL
HOQUE, VILL. FARHADPUR, P.O. BHANGABAZAR, P.S. BADARPUR, DIST.
KARIMGANJ, ASSAM.

2: KAMRUL ISLAM

S/O. LT. MOTIUR RAHMAN
VILL. AND P.O. LAMAJUAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY SECRETARY TO THE GOVT. OF ASSAM, DEPT. OF SCHOOL
EDUCATION, DISPUR, GUWAHATI-06.

2: THE DIRECTOR OF ELEMENTARY EDUCATION

KAHILIPARA
GUWAHATI-22.

3: THE DISTRICT ELEMENTARY EDUCATION OFFICER OF KARIMGANJ
DISTRICT

DISTRICT CIRCLE
KARIMGANJ
P.O.
P.S. AND DIST. KARIMGANJ
ASSAM
PIN-788710.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER

BADARPUR BLOCK
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM.

5:MANAGING COMMITTEE OF THE 863 NO. MIRZAPUR GANGPAR L P
SCHOOL
REP. BY ITS PRESIENT
VILL. GANGPAR
P.O. BHANGABAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

Advocate for the Petitioner : MR H R CHOUDHURY

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

11-04-2023

Heard Mr. H.R. Choudhury, learned counsel for the petitioners and Ms. N. Phukan, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 to 4.

Pursuant to the Government's Office Memorandum communicated on 03.08.2021 and subsequent approval of the State Government in the Elementary Education Department dated 01.04.2022, the Director of Elementary Education, Assam by Notification No. EAA.104/Amal/2021/388 dated 30.04.2022 amalgamated/ merged the petitioner's school, namely, Kurban Ali Lower Primary School with DISE Code 18220117002 with 863 Mirzapur Gangpar Lower Primary School having DISE Code of 18220108201 in the district of Karimganj under the Shiksha Khetra Scheme. It is to be noted herein that both the L.P. Schools, named above, are provincialised schools.

Being aggrieved with the said Notification of amalgamation/merger dated 30.04.2022, noted above, the petitioner school approached this Court by filing a writ petition being WP(C) No. 5138/2022 and the Court by order dated 08.08.2022 disposed of said WP(C) No. 5138/2022 directing the petitioner school to file an appeal before the Secretary of Elementary Education, Assam by taking all possible grounds within a period of 15 (fifteen) days from the date of the said order dated 08.08.2022 regarding the Notification of amalgamation/merger dated 30.04.2022 issued by the Director of Elementary Education, Assam with the observation that the Secretary of Elementary Education, Assam shall consider the appeal of the petitioner and dispose of the same by a Speaking Order in accordance with law within a period of 2 (two) months from the date of receipt of the said appeal with further observation that till appeal is considered and disposed of by the respondent No. 2 therein i.e., the Director of Elementary Education, Assam, the impugned Notification dated 30.04.2022 shall remain suspended, insofar as the petitioner's school is concerned.

In the meanwhile, the Mission Director, Samagra Shiksha, Assam on 09.12.2022 issued respective dates for "Gunotsav, 2023" of the schools of the State in three phases on 19.01.2023, 20.01.2023 & 21.01.2023 for external evaluation and with regard to Karimganj District, it was fixed on 18.01.2023 for self evaluation. As such, the petitioner preferred this writ petition praying amongst others for direction to the respondent authorities to conduct "Gunotsav, 2023" in the petitioner's school scheduled on 18.01.2023 and to set aside the impugned Notification dated 30.04.2022 issued by the Director of Elementary Education, Assam amalgamating the petitioner's school, namely, Kurban Ali L.P. School with 863 Mirzapur Gangpar L.P. School in the district of Karimganj.

Notice in this case was issued on 22.12.2022.

During the pendency of this writ petition, the period of Gunotsav, 2023 in the district of Karimganj that was conducted by the Samagra Shiksha, Assam is already over.

With regard to the prayer of the petitioner for setting aside the impugned Notification dated 30.04.2022 issued by the Director of Elementary Education, Assam amalgamating the petitioner's school Kurban Ali L.P. School with 863 Mirzapur Gangpar L.P. School in the district of Karimganj under the Scheme of Shiksha Khetra, Assam the Court is of the view that since the Court had already passed the order dated 08.08.2022 in said WP(C) No. 5138/2022 pertaining to the said Notification dated 30.04.2022, noted above, the question of setting aside the impugned Notification dated 30.04.2022, at this stage, does not arise again, and accordingly, the said prayer of the petitioner made in this writ petition stands rejected.

In view of the above, this writ petition stands dismissed.

JUDGE

Comparing Assistant