

GAHC010266132023



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

Case No. : WP(C)/6857/2023

SCHOOL MANAGING COMMITTEE MOUKOWA UZIRAR CHAR ME
MADRASSA AND 9 ORS
P.O.- UZIRAR CHAR,
P.O.- UZIRAR CHAR,
DIST.- BARPETA,
REPRESENTED BY MOHIRUDDIN,
PRESIDENT OF THE SMC SCHOOL.

2: MOHIRUDDIN
S/O- LATE LALCHAN

PRESIDENT OF THE SCHOOL MANAGING COMMITTEE.
MOUKHOWA UZIRAR CHAR M.E. MADRASSA

VILL- UZIRAR CHAR

P.O.- UZIRAR CHAR

P.S.- ALOPATICHAR

DIST.- BARPETA

PIN- 783101.

3: JIAR ALI
S/O- LATE HOROF ALI

VILL.- MOUKHOWA CHAR

MEMBER OF S.M.C.
P.O.- UZIRAR CHAR

P.S.- ALOPATICHAR

DIST.- BARPETA
PIN- 783101.

4: MD. ABUL
S/O- TOMEJ ALI

VILL.- MOUKHOWA CHAR

MEMBER OF S.M.C.
P.O.- UZIRAR CHAR

P.S.- ALOPATICHAR

DIST.- BARPETA
PIN- 783101.

5: AYMONA
W/O. ABDUL LATIF

VILL.- MOUKHOWA CHAR

MEMBER OF S.M.C.
P.O.- UZIRAR CHAR

P.S.- ALOPATICHAR

DIST.- BARPETA
PIN- 783101.

6: PASAN ALI
S/O- JUNGU SK
VILL.- MOUKHOWA CHAR

MEMBER OF S.M.C.
P.O.- UZIRAR CHAR

P.S.- ALOPATICHAR

DIST.- BARPETA
PIN- 783101.

7: DELWARA KHATUN
W/O- MOYNAL HOQUE

VILL.- MOUKHOWA CHAR

MEMBER OF S.M.C.
P.O.- UZIRAR CHAR

P.S.- ALOPATICHAR

DIST.- BARPETA
PIN- 783101.

8: SHOHIDA KHATUN
W/O. ABU SHAMA
VILL.- MOUKHOWA CHAR

MEMBER OF S.M.C.
P.O.- UZIRAR CHAR

P.S.- ALOPATICHAR

DIST.- BARPETA
PIN- 783101.

9: IBRAHIM ALI
S/O- LATE AJMAT ALI

VILL.- MOUKHOWA CHAR

MEMBER OF S.M.C.
P.O.- UZIRAR CHAR

P.S.- ALOPATICHAR

DIST.- BARPETA
PIN- 783101.

10: MESER ALI
S/O- LATE AKBOR ALI

VILL.- MOUKHOWA CHAR

MEMBER OF S.M.C.
P.O.- UZIRAR CHAR

P.S.- ALOPATICHAR

DIST.- BARPETA
PIN- 783101

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,

SECONDARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE SECRETARY TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPTT.
DISPUR
GUWAHATI- 781006.

3:THE DIRECTOR
SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

4:THE DISTRICT COMMISSIONER
BARPETA
PIN- 781301.

5:THE INSPECTOR OF SCHOOL
BDC
BARPETA
PIN- 781301.

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BARPETA
PIN- 781301.

7:THE BLOCK ELEMENTARY EDUCATION OFFICER
MANDIA BLOCK
P.O.- MANDIA

DIST.- BARPETA

PIN- 781308.

8:AHAMMAD HUSSAIN MOLLAH
HEAD MASTER
UZIRAR CHAR HIGH SCHOOL

P.O.- UZIRAR CHAR

DIST.- BARPETA

VIA GOALPARA
PIN- 783101

Advocate for the Petitioner : MR. A ROSHID

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

Date : 29.11.2023

Heard Mr. A. Roshid, learned counsel for the petitioners and Mr. U. Sarma, learned counsel for the respondents No. 1, 3 and 5, being the authorities in the Secondary Education Department. Also heard Mr. B. Kaushik, learned counsel for the respondents No. 2, 6 and 7, being the authorities in the Elementary Education Department and Ms. D.D. Barman, learned Addl. Senior Government Advocate for the respondent No. 4, being the District Commissioner, Barpeta.

2. Considering the nature of the order proposed to be passed today, notice is not required to be issued to the respondent No. 8, who is the Headmaster of Uzirar Char High School.

3. The present SMC of Moukhowa Uzirar Char M.E. Madrassa was constituted as per the order of the District Elementary Education Officer, Barpeta dated 16.09.2021. It is stated that under the rules the term of managing committee is for three years, meaning thereby that up to 15.09.2024 the present managing committee of the school would have its term. The petitioners are aggrieved by a communication dated 30.08.2023 of the District Elementary Education Officer, Barpeta to the Deputy Inspector of Schools, Barpeta to make necessary arrangement for constituting the new school managing committee.

4. It is stated by Mr. B. Kaushik, learned counsel for the respondents in the Elementary Education Department that this is a general order pertaining to all the schools of Barpeta district on the premises that in most of the schools, the term of the school managing committees is likely to come to an end by October,

2023 and therefore in order to provide a seamless SMC to the schools, there is an urgent requirement to reconstitute it so that upon expiry of the term of the present SMC the new SMC can take over.

5. However, Mr. A. Roshid, learned counsel for the petitioners points out that the SMC of the petitioners' school was constituted on 16.09.2021, meaning thereby that its term would continue up to 15.09.2024.

6. In view of the factual situation which is different in respect of the petitioners' school with that of the other schools of the Barpeta district, we provide that that communication dated 30.08.2023 shall not be applicable in respect of the SMC of the petitioners' school i.e. Moukhowa Uzirar Char M.E. Madrassa. However, in respect of the schools where there is a requirement to reconstitute the SMC, the communication dated 30.08.2023 would hold the field. In respect of the SMC of petitioners' school, prior to its expiry, the authorities would be at liberty to take appropriate action for reconstitution of the SMC.

7. It is stated by Mr. A. Roshid, learned counsel for the petitioners that Moukhowa Uzirar Char M.E. Madrassa was earlier merged with Ujirar Char High School which was assailed by the petitioners in WP(C) No. 5440/2023, wherein there is an order that the grievance against the merger be raised before the authorities in the Government and till such decision is taken on the grievance raised, the merger shall not given its effect. Pursuant to such order, it is stated that Moukhowa Uzirar Char M.E. Madrassa is presently functioning independently, but the Headmaster of Uzirar Char High School taking advantage of the earlier merger is usurping upon the quota of rice under the mid day meal scheme and other funds which the Moukhowa Uzirar Char M.E. Madrassa is entitled.

8. The SMC of the petitioners' school to approach the Deputy Inspector of Schools, Barpeta and the Deputy Inspector upon such approach/if already approached, to look into the aspect and ensure that the quota entitled to the Moukhowa Uzirar Char M.E. Madrassa is provided to them as per the procedure and the Deputy Inspector to also ensure that the Headmaster of the Uzirar Char High School does not interfere in any such process.

Writ petitioner stands disposed of as indicated above.

JUDGE

Comparing Assistant