



Serial No. 03
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 13 of 2024

Date of Decision: 20.11.2024

Smti Kwirina Thyrniang

... **Petitioner(s)**

Versus

1. The State of Meghalaya

Represented by the Commissioner & Secretary
Education Department, Government of Meghalaya,
Shillong.

2. The Sub-Divisional School Education Officer, Nongstoin
West Khasi Hills District, Meghalaya

3. The Sordar Domsynrang-cum-President
Managing Committee Nongdomsynrang L.P. School
B.P.O. Seinduli-793119
West Khasi Hills District, Meghalaya

4. Shri Trophinus Sangriang,
Assistant Teacher, Nongdomsynrang L.P. School
B.P.O. Seinduli-793119
West Khasi Hills District, Meghalaya

.... **Respondent(s)**

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. L. Shongwan, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Mr. H. Abraham, GA (For R 1&2)
Mr. H.L. Shangreiso, Sr. Adv. with
Mr. T. Dkhar, Adv. (For R 3&4)



i)	Whether approved for reporting in Law journals etc:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER (ORAL)

1. Heard the learned counsel for the parties.
2. The petitioner who is the presently the Assistant Teacher and erstwhile Head Teacher of Nongdomsynrang L.P. School by way of the instant writ petition has challenged the reconstitution of the Managing Committee of the said School, which has received the approval vide order dated 19.01.2024.
3. Mr. L. Shongwan, learned counsel for the petitioner has submitted that the re-constitution of the new Managing Committee, which has been approved vide the impugned order was not to the notice and knowledge of the stakeholders, and the re-constitution by appointing the respondent No. 4, who is the Assistant Teacher/Secretary is in violation of the order dated 30.05.1996, issued by the Director of Public Instructions, wherein it is provided that except for a minority School, all Head Teachers of Non-Government Aided Primary School shall function as Secretaries of the School Managing Committee. He further submits that this position has been reiterated in Page-30 of the additional



affidavit and at Rule 13 clause 4 of the Rules, which deals with the composition and functions of the School Managing Committee. He also submits that the re-constitution being against the prevalent Rules, as also the re-designation of Head Teacher and Assistant Teacher being against the norms, the impugned order being bad in law, the same is liable to be interfered with.

4. Mr. N.D. Chullai, learned AAG assisted by Mr. H. Abraham, learned GA for the respondents Nos. 1 & 2, has referred to the additional affidavit filed by the State respondents on 01.08.2024, whereby at Para-2 thereof, the State respondents have categorically stated that the Managing Committee of the School was not constituted as per the Meghalaya Right to Children to Free and Compulsory Act and Rules. In this context, the learned AAG has drawn the attention of the Court to Sections 2 (f) and 2 (n) (i) of the Right of Children to Free and Compulsory Education Act, 2009, to show that the School in question comes under the purview of the Act. He therefore submits that as the Managing Committee has been constituted in contravention of Rule-13 thereof, the same should be annulled and a fresh re-constitution to be done as per the mandate of the Act.

5. Mr. H.L. Shangreiso, learned Senior counsel assisted by Mr. T. Dkhar, learned counsel for the respondents Nos. 3 & 4, has raised



strong objections to the submissions made by the learned counsel for the petitioner, as also by the learned AAG for State respondents, and submits that there is a contradiction in the provisions as applicable, inasmuch as, normally a School Managing Committee is to be constituted for 3 years, whereas the Rules have provided that in an Aided School the Managing Committee is to be re-constituted every 2 years. He further submits that the said Managing Committee, under question has been validly constituted by the Sponsoring Body comprising of parents, guardians as required. He therefore, submits that there being no anomaly in the re-constitution, the writ petition deserves no consideration and is liable to be dismissed. Before concluding, he has also prayed that some more time be allowed to the respondent No. 4, to bring on record other materials to substantiate the legality of the proceedings.

6. Heard the learned counsel for the parties.

7. On the prayer made by the learned counsel for the respondents Nos. 3 & 4, this Court is not inclined to further lengthen the process, inasmuch as, from the competent authorities an affidavit has been brought on record, wherein at Para-2, categorical statements have been made as to the issue in question. In the said affidavit filed by the Director of School Education at Para-2, it has been stated as follows:-

“2. That in exercise of the powers conferred by Section-38 of the Right of Children to Free and Compulsory



Education Act 2009. The Government of Meghalaya, Education Department vide Notification dated 1st August, 2011 has come with the Meghalaya Right of Children to Free and Compulsory Education Rules 2011 is pleased to make the following rules. Section-13 of the said Rules. Composition and function of the School Management Committee for the purpose of sub Section-1 of Section-21 a School Management Committee shall be constituted in every School, other than an aided School, within its jurisdiction, within 6 (six) months of the appointment date and shall re-constituted every 2 years.

However, the Managing Committee in the instant writ petition was not constituted as per the Meghalaya Right of Children to Free and Compulsory Education Rules 2011.”

8. A perusal of the above paragraph will show that the Act and the Rules i.e. the Right of Children to Free and Compulsory Education Act, 2009 is to be followed, and that the composition and functions of a School Managing Committee are to be constituted in every school within its jurisdiction as per the mandate of the Act and Rules, which however was not done in the present case. Further, on the question as to whether the instant School will come under the purview of the Act, it is noted that at Section 2 (f), wherein “elementary education” has been defined, it has been provided that the same would mean education from first class to eighth class, and at Section 2(n)(i) “School” would mean any recognised school imparting elementary education and would include a school established, owned or controlled by the appropriate Government or a



local authority. Section 21 of the said Act, which is very relevant with regard to who shall constitute the sponsoring body is quoted hereinbelow, as also Rule 13 (1), with regard to the term thereof.

“21. School Management Committee.-(1) A School, other than a school specified in sub-clause (iv) of clause (n) of section 2, shall constitute a School Management Committee consisting of the elected representatives of the local authority, parents or guardians of children admitted in such school and teachers:

Provided that at least three-fourth of members of such Committee shall be parents or guardians:

Provided further that proportionate representation shall be given to the parents or guardians of children belonging to disadvantaged group and weaker section:

Provided also that fifty per cent of Members of such Committee shall be women.

(2) The School Management Committee shall perform the following functions, namely:-

(a) monitor the working of the school;

(b) prepare and recommend school development plan;

(c) monitor the utilisation of the grants received from the appropriate Government or local authority or any other source; and

(d) perform such other functions as may be prescribed.

[Provided that the School Management Committee constituted under sub –section (1) in respect of,-

(a) a school established and administered by minority whether based on religion or language; and

(b) all other aided schools as defined in sub-section (ii) of clause (n) of section 2, shall perform advisory function only.”

13. Composition and functions of the School Management Committee for the purposes of section 21.

1. A School Management Committee shall be constituted in every school, other than an unaided school, within its



jurisdiction, within six months of the appointed date, and re-constituted every two years.”

9. In the backdrop of the facts and circumstances, especially the applicability of the relevant law, it is found that the Managing Committee so constituted by the respondent No. 4, as also the non-consideration of Head Teacher as Secretary is illegal and in violation of the law as prevalent. Accordingly, the impugned order and the re-constitution of the said Managing Committee are set aside, and the respondent No. 2 is directed to call for a meeting of the sponsoring body as provided under the Act, and to convene a meeting for re-constitution within a period of 6(six) weeks, from today. Until the said re-constitution is finalized, the respondent No. 2 shall look into the affairs of the School.

10. The instant writ petition stands allowed, and is accordingly disposed of.

JUDGE

Meghalaya
20.11.2024
“V. Lyndem-PS”