



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC(WA) No. 33 of 2024
In WA No. 56 of 2024

Date of order: 17.10.2024

Smti. Faluda Biswas

...Appellant

- Versus -

1. The State of Meghalaya represented by the Commissioner and Secretary to the Government of Meghalaya, Education Department, Meghalaya.
2. Director of Elementary Education, Meghalaya, Shillong.
3. The Deputy Commissioner cum Chairman, SSA, West Garo Hills District, Tura, Meghalaya, Shillong.
4. The District Mission Co-ordinator, SSA, West Garo Hills District, Meghalaya.
5. The Superintendent of Police, West Garo Hills, Tura.
6. The Deputy Inspector of Schools, Dadenggiri, District: West Garo Hills.
7. The Su-Divisional Officer (Civil) cum Chairman SSA, Dadenggiri Sub-Division, Dadenggiri, District West Garo Hills, Meghalaya.
8. The Officer-In-Charge, Phulbari, Police Station, Phulbari, West Garo Hills District, Meghalaya.
9. Soleman Hoque, Ex-President of Rajpur of Rajpur Girls' UP School, R/o Rajpur Village, P.O : Bhaitbari West Garo Hills District.



10. Saidul Hussain,
Ex-Member
Rajpur Girls' UP School
S/o (L) Moktal Hussain
R/o Rajpur Village
PO: Bhaitbari, West Garo Hills District.
11. Moinul Hoque
Ex-Member
Rajpur Girls' UP School
S/o (L) Moktal Hussain
R/o Rajpur Village
PO: Bhaitbari, West Garo Hills District.
12. Nur Hussain,
Ex-Member
Rajpur Girls' UP School
S/o (L) Moktal Hussain
R/o Rajpur Village
PO: Bhaitbari, West Garo Hills District.
13. Hafizur Rahman,
Ex-Member
Rajpur Girls' UP School
S/o (L) Moktal Hussain
R/o Rajpur Village
PO: Bhaitbari, West Garo Hills District.
14. Rajpur Girls Upper Primary School
represented by its Head Master
Miss Tanuja Begum
D/o (L) Moktal Hussain
R/o Rajpur Village
PO: Bhaitbari, West Garo Hills District.

...Respondents

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge



Appearance:

For the Petitioner : Ms. B.F. Kharwanlang, Adv. vice
Mr. K. Paul, Sr. Adv.

For the Respondents : Mr. N.D. Chullai, AAG with
Mr. E.R. Chyne, GA [For R1-8]
None for R 9-14

i)	Whether approved for reporting in Law journals etc.:	Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

We find that sufficient cause has been shown for condonation of a delay of about 12 days in filing the appeal. We, accordingly condone the delay in filing the appeal. This application [MC(WA) No. 33 of 2024] under Section 5 of the Limitation Act, 1963 is allowed.

The appellant/writ petitioner claims to be the headmistress of Rajpur Girls Upper Primary School. She says that the school was established in the month of January, 1999. Initially, she was appointed there as assistant teacher and thereafter promoted to the post of headmistress. By this writ, the appellant/writ petitioner claimed appropriate directions on the State respondents for release of salaries of the teaching and non-teaching staff of the school for the period March, 2002 to February, 2003 from the then Managing Committee of the



school and also for payment of their current salaries, arrear salaries and other benefits.

By the impugned judgment and order dated 25th June, 2024, a learned single judge of this Court had not only dismissed the writ petition but imposed cost of Rs. 10,000/- on the appellant/writ petitioner.

In the impugned judgment and order facts have been gone into by the learned Judge in greatest detail. Amongst other documents, his lordship has relied upon an order of this Court dated 21st July, 2023 to the following effect:

“In course of hearing, Mr. K. Paul, learned Sr. counsel for the petitioner has pointed out that the State respondent in their affidavit-in-opposition dated 22.05.2015 at page-3 in the last paragraph has made an averment that there is a school named and styled as Rajpur Girls Upper Primary School in existence which records are maintained by the Department of Education. However, as far as the school also named and styled as Rajpur Girls Upper Primary School supposedly headed by the petitioner herein as the Headmistress, it is stated that the same is not in existence and it is a fictitious school not known to the authorities.

Mr. K. Paul, has further submitted that to this extent, the issue of the actual school going by the same name which is duly recognised by the Government has to be identified so as to proceed with this matter, for if the school headed by the petitioner is found to be actually not in existence this petition would eventually become futile and would be rendered infructuous. It is again submitted that the said respondent may be directed to clarify on this point.



Mr. S. Sengupta, learned Addl. Sr. GA has submitted that on being directed the relevant information will be submitted before this Court by way of an additional affidavit.

Accordingly, the Director or the appropriate authority is hereby directed to file the said affidavit confirming the status of the actual school in existence.

The State affidavit should be filed within the next date fixed.

List this matter after 3(three) weeks.”

Consequent to the said order, the State respondents filed an additional affidavit dated 29th August, 2022 containing a report of the Secretary to the Government of Meghalaya, Education Department & State Project Director, SEMAM - SSA Shillong. The conclusion in the report is as follows:

*“5. **Conclusion** - In conclusion and as elaborated above, it is hereby clarified and confirmed that the original and existing school or Rajpur Girl’s Upper Primary School headed by Smti. Subeda Khatun, Headmistress is functioning normally and documents and records are maintained under the different offices under the Education Dept. whereas the breakaway school established by Smti. Faluda Biswas (Petitioner), the self-styled Headmistress in the same name Rajpur Girl’s Upper Primary School do not exist in the record of all offices under the Education Dept.*

Submitted to the Govt. Advocate for information of the Hon’ble High Court of Meghalaya and further necessary action.”

It is evident from the additional affidavit that there were



two schools by the same name which were functioning in the concerned area, one was headed by Subeda Khatun whereas the other by the appellant. The former school was “functioning normally”. According to the respondents, there was no existence of the appellant’s school anywhere in the record of the government. The learned judge after considering the evidence before him remarked “the above conclusion made in the report establishes beyond reasonable doubt that the appellant’s school does not exist in the Government record.”

When this Court in exercise of its writ jurisdiction has made a detailed inquiry about the existence and the functioning of the school in question and has arrived at a most reasonable conclusion that it does not exist in government records, there is every reason why this Court should affirm those findings. The impugned judgment and order in our view does not call for any interference. However, the direction regarding the imposition of cost is set aside.

The impugned judgment and order dated 25th June, 2024 is affirmed and the appeal is hereby dismissed. No order as to costs.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice