

GAHC010001642024



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

Case No. : I.A.(Civil)/72/2024

NANI GOPAL KARMAKAR
S/O LATE TARAPADA KARMAKAR, R/O WARD NO. 5, LAKHIPUR TOWN,
P.O.-LAKHIPUR, DIST-GOALPARA, ASSAM, PIN-783129

VERSUS

JAHIRUL ISLAM AND 3 ORS.
S/O ABU FAZAL HAQUE, R/O VILL-FORINGAPARA, P.O.-LAKHIPUR, DIST-
GOALPARA, ASSAM, PIN-783129

2:THE STATE OF ASSAM
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT
OF ASSAM
DEPARTMENT OF SECONDARY EDUCATION
DISPUR
GUWAHATI-781006

3:THE DIRECTOR OF SECONDARY EDUCATION
KAHILIPARA
GUWAHATI
ASSAM
PIN-781019

4:THE INSPECTOR OF SCHOOLS
GDC
GOALPARA
P.O.-GOALPARA
DIST-GOALPARA
ASSA

Advocate for the Petitioner : MR. T J MAHANTA

Advocate for the Respondent : MR. N H BARBHUIYA

Linked Case : WP(C)/5784/2023

JAHIRUL ISLAM
SON OF LATE ABU FAZAL HAQUE
VILL.- FORINGAPARA
P.O.- LAKHIPUR
DIST.- GOALPARA
ASSAM
PIN- 783129.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
SECONDARY EDUCATION DEPARTMENT
DISPUR
GUWAHATI-6.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE INSPECTOR OF SCHOOLS
GDC
GOALPARA
P.O.- GOALPARA

DIST.- GOALPARA
ASSAM.

4:NANI GOPAL KARMAKAR
S/O- LT. TARAPADA KARMAKAR

ADDITIONAL TEACHER (CONTRACTUAL)

SIMULBARI HIGHER SECONDARY SCHOOL

VILL- SIMULBARI
P.O.- AOLATOLI

DIST.- GOALPARA
ASSAM
PIN- 783129.

Advocate for : MR. N H BARBHUIYA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 3 ORS.

**BEFORE
HON'BLE MR. JUSTICE KARDAK ETE**

O R D E R

19.02.2024.

Heard Mr. T.J. Mahanta, learned Senior Counsel assisted by Ms. P. Bhattacharjee, learned counsel for the applicant/respondent No.4. Also heard Mr. N.H. Barbhuiya, learned counsel for the opposite party/petitioner.

(2) By filing this application, the applicant has sought for modification/vacation/alteration of the order dated 09.10.2023, passed by this Court in WP(C) No.5784/2023.

(3) The petitioner/opposite party has challenged the impugned order of appointment of the respondent No. 4, by which the respondent No.4 has been temporarily allowed to act as the Academic In-charge of Simulbari Higher Secondary School for the smooth running of the school environment and academic side with immediate effect, issued by the Inspector of Schools, G.D.C., Goalpara, vide Memo No.GDC/Venture/Pt.-II/2022-23/1573, dated 04.04.2023.

(4) This Court, by an order dated 09.10.2023, has stayed the impugned order dated 04.04.2023, on the prima facie view that the order to act as an Academic In-charge of the school has to be understood to be an order allowing the person to be the In-charge Principal of the school in-as-much as, it is the duty of the

Principal of school to be also the Academic In-charge of the Higher Secondary School and the said order dated 04.04.2023 had been issued by the Inspector of Schools, as per the resolution of the SMDC. Further this Court was of the view that since the Rule 12 of the Assam Secondary Education (Provincialised Schools) Service Rules, 2018, provides that the Principal of the Higher Secondary School is to be appointed by the Director of Secondary Education, Assam by following the procedure provided therein and any order allowing a person to be the In-charge Principal would also have to be made by the same appointing authority and not by an authority who is below the appointing authority.

(5) On perusal of the impugned order dated 04.04.2023, issued by the Inspector of Schools, who is the In-Charge Principal of the said School, find that same clearly mentioned that the applicant/respondent No.4 is allowed to act as the Academic In-charge of the Higher Secondary School for the smooth running of the school environment and academic side. It is to be taken note that the interest of the students and the School should be given preference to any other individual dispute with regard to holding of charge by the teacher of the said school.

(6) Since the order dated 04.04.2023, allowed the applicant/respondent No.4 act only as the Academic In-charge for the betterment of the school, while holding the In-charge Principal to be himself by the Inspector of Schools, I prima facie find no infirmity in the impugned order dated 04.04.2023.

(7) The appointment/arrangement to hold the charge of Academic In-charge for the betterment of the school, cannot be construed to be an order allowing the applicant/respondent No.4 in charge of Principal of the school.

(8) In view of above, I am of the prima facie view that the order dated 04.04.2023, allowing the applicant/respondent No.4 to act as an Academic In-Charge cannot be considered to be an order for allowing to hold the In-charge Principal of the said school.

(9) Thus, I am of the view that the order dated 09.10.2023 is liable to be modified. Accordingly, the applicant/respondent No.4 shall be allowed to act as the Academic In-charge of the Simulbari Higher Secondary School forthwith.

(10) It is made clear that the allowing the applicant/respondent No.4 to act as the Academic In-charge of the Simulbari Higher Secondary School shall not be construed that he would be allowed to hold the charge of In-Charge Principal of the said school.

(11) Accordingly the I.A. stands allowed and disposed of.

JUDGE

Comparing Assistant