

GAHC010002862024



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

Case No. : WP(C)/107/2024

SHAHIDUL ISLAM
S/O- HUSSAIN ALI,
R/O- LOCHANABARI,
P.O. AND P.S.- MOIRABARI,
DIST.- MORIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
EDUCATION (ELEMENTARY) DEPARTMENT,
DISPUR, GUWAHATI-6.

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

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
MORIGAON
ASSAM
PIN- 782105.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
LAHARIGHAT BLOCK
MORIGAON
ASSAM
PIN- 782127.

5:THE ADDITIONAL DEPUTY COMMISSIONER (EDUCATION)
MORIGAON

ASSAM
PIN- 782105.

6:THE HEAD MASTER
MADHYA LOCHANABORI LP SCHOOL
LAHARIGHAT
MORIGAON
ASSAM

PIN- 782127.

7:MD. ABUL KALAM
S/O- LT. ABUBAKKAR SIDDIQUE

R/O- LOCHANABARI

P.O. AND P.S.- MOIRABARI

DIST- MORIGAON
ASSAM

PIN- 782105

Advocate for the Petitioner : MR B P BORAH

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 09.01.2024

Heard Mr. B.P. Borah, learned counsel for the petitioner. Also heard Mr. P.K. Borah, learned standing counsel for the respondent nos.1 to 4, and Ms. B. Das Barman, learned counsel appearing for respondent no.5.

2. In view of the nature of the order proposed to be passed, the issuance of notice on the respondent nos.6 and 7 at this stage is not deemed necessary.

3. The petitioner has by way of this petition has raised a grievance

against order dated 26.12.2023, issued by the District Elementary Education Officer, Morigaon, by which the candidature of the petitioner and one another has been rejected for the post of President of School Managing Committee of Madhya Lochanabori L.P. School and the candidature of respondent no.7 was found to be the eligible one. The petitioner has made this application on the ground that the allegation that the petitioner's child is not studying in the said school, which was the reason for rejection of his candidature, is not correct. He has a daughter studying in the said school and accordingly, he being a parent is entitled to participate in the process for constitution of School Managing Committee and as well as also submit his candidature for the post of President.

4. The petitioner in course of the hearing today has produced an order dated 06.01.2024, by which the order impugned in the writ petition dated 26.12.2023 was withdrawn by the District Elementary Education Officer, Morigaon and the BEEO, Laharighat has been allowed to act as President of the school.

5. In view of the said position, the writ petition is hereby disposed of requiring the Director of Elementary Education, Assam and the District Elementary Education Officer, Morigaon to take all appropriate steps for formation of the governing body of the school in question by strictly following the process mandated under the Assam Right to Education Rules, 2011 and the Right to Education Act, 2011.

6. However, it is provided that in the event the petitioner offers his candidature, his such candidature shall be accepted only in the event after a due enquiry the allegations leveled against him and contained in the complaint dated 25.10.2023 (Annexure-B to the writ petition) of having misappropriated a sum of Rs.18,700/- (Rupees eighteen thousand seven hundred only) pertaining

to Mid-day Meal Scheme during his earlier tenure as President of the School Managing Committee of the school in question is duly examined and the petitioner is exonerated of the same. The said enquiry shall be conducted by the Director of Elementary Education, Assam or an authority specified by him/her.

7. Without such an enquiry being completed, the candidature of the petitioner for the post of President and/or Member of the School Managing Committee of the school in question shall not be entertained by the authorities.

8. With the above observation and direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant