

GAHC010029462024



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

Case No. : WP(C)/833/2024

SCHOOL MANAGEMENT AND DEVELOPMENT COMMITTEE (SMDC) OF
BALIKURI ANCHALIK HIGH SCHOOL
BALIKURI, BARPETA REPRESENTED BY ITS PRESIDENT, MOZIDUL ISLAM,
28 S/O- RAHMAT ULLAH, VILLAGE AND PO- BALIKURI, DIST.- BARPETA,
ASSAM- 781319

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI-6

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

3:THE DEPUTY COMMISSIONER
BARPETA
ASSAM- 781301

4:THE INSPECTOR OF SCHOOLS
BARPETA DISTRICT CIRCLE
BARPETA
ASSAM- 781301

5:THE EXECUTIVE DIRECTOR
SAMAGRA SHIKSHA
ASSAM
KAHILIPARA
GUWAHATI-19

6:LAL MAHMUD
HEAD MASTER (I/C)
BALIKURI ANCHALIK HIGH SCHOOL
BALIKURI
BARPETA
ASSAM- 78131

Advocate for the Petitioner : MD S HOQUE, MR. M DEKA

Advocate for the Respondent : SC, SEC. EDU., MR S J SHAMIM (R-6),MR. M S ALAM (R-6),MD. S ALOM (R-6),MS. D D BARMAN (GA, ASSAM),SC, RMSA

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

03/10/2024

Heard Mr. S Hoque, learned counsel for the petitioner and Mr. S M T Chistie, learned Standing counsel, Department of School (Secondary) Education, Assam for the respondent Nos.1, 2 & 4. Also heard Mr. B Deuri, learned Government Advocate, Assam for the respondent No. 3; Mr. B Gogoi, learned Standing counsel, Samagra Siksha, Assam for the respondent No. 5 and Mr. S Alom, learned counsel for the respondent No. 6, who has entered appearance on behalf of the said respondent by filing Vakalatnama.

2. The respondent No. 6 served as In-charge Headmaster of Balikuri Anchalik High School, Balikuri, District-Barpeta. After an enquiry, the Inspector of Schools, Barpeta District Circle, Barpeta respondent No. 4 on 06.10.2023 submitted a complaint against the respondent No. 6 In-charge Headmaster of Balikuri Anchalik High School before the Director of Secondary Education, Assam respondent No. 2 detailing misappropriation of midday meal and the amount of rice that was supplied to the said school for the midday meal of the students of that school from Class-I to Class-VIII and its closing balance as found on 28.06.2023 during the visit of the said Inspector of Schools, Barpeta District Circle, Barpeta. In spite of that as the respondent Directorate of Secondary Education, Assam did not take any action on the respondent No. 6 on the basis of said complaint of the Inspector of Schools, Barpeta District Circle, Barpeta dated 06.10.2023, the petitioner being the President of the School Management and Development Committee of said Balikuri Anchalik High School, Balikuri, filed this writ petition on 09.02.2024.

3. Notice in this case was issued on 21.02.2024.

4. Today, Mr. Chistie, learned Standing counsel, Department of School (Secondary) Education, Assam placed a copy of the order of the Director of Secondary Education, Assam dated 20.07.2024 relating to the respondent No. 6 the then In-charge Headmaster of said Balikuri Anchalik High School, Balikuri.

5. As per the said order of the Director of Secondary Education, Assam issued under No. E-352392/708 dated 20.07.2024 on receipt of the said complaint of the Inspector of Schools, Barpeta District Circle, Barpeta, the said respondent No. 6 was placed under suspension by an order dated 28.02.2024 for the alleged misappropriation of fund allotted to the said school under the Mid-Day Meal Scheme.

6. The said respondent No. 6 after his such suspension from service submitted his reply in defence on 18.03.2024 and an enquiry committee was duly constituted to proceed with the departmental proceeding initiated against the respondent No. 6 and after completion of the inquiry, the Enquiry Officer on 11.06.2024 submitted the enquiry report.

7. The enquiry report submitted by the Enquiry Officer on 11.06.2024 indicated that since long there was a continuous disagreement between the said respondent No. 6 In-charge Headmaster and the President of the SMDC of the said High School, i.e., the petitioner and as a result the petitioner being the President of the SMDC of said High School did not cooperate with the respondent No. 6 in regular procedure of the school for which a deadlock in serving Mid-day meal, delivery of uniform etc. in the school cropped up.

8. After hearing the parties, the Enquiry Officer suggested to substitute suitable persons for both the positions of the Headmaster as well as the President of the SMDC of the said school for maintaining a healthy academic environment, smooth running and performance of the institution.

9. On verification of the records as well as the enquiry report, the Director of Secondary Education, Assam accepted the said enquiry report dated 11.06.2024 and dropped the departmental proceeding drawn up against the respondent No. 6, regularizing his period of suspension for all purposes. However, the respondent No. 6 has been reinstated in service as an Assistant Teacher of Balikuri Anchalik High School, Balikuri, District-Barpeta and allowed him to serve in that capacity only, whereas the Inspector of Schools, Barpeta District Circle, Barpeta has been allowed to act as the Headmaster In-charge of said High School till the post of Headmaster in that school is filled up by a

regular incumbent clarifying that the departmental proceeding initiated against the respondent No. 6, i.e., the earlier In-charge Headmaster of said Balikuri Anchalik High School, Balikuri to be recalled and reviewed on receipt of any adverse report from the Director of Audit (Local Fund).

10. Considering the said order of the Director of Secondary Education, Assam issued under No. E-352392/708 dated 20.07.2024 placed by Mr. Chistie, learned Standing counsel, Department of School (Secondary) Education, Assam, the Court found that the Director of Secondary Education, Assam has already taken action against the said respondent No. 6 pursuant to the communication of the Inspector of Schools, Barpeta dated 06.10.2023.

11. As such, this writ petition, being devoid of merit, stands dismissed.

12. Copy of the order under No. E-352392/708 dated 20.07.2024 of the Director of Secondary Education, Assam placed before the Court today by Mr. Chistie, learned Standing counsel, Department of School (Secondary) Education, Assam be kept as a part of the record.

JUDGE

Comparing Assistant