

GAHC010038492024



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

Case No. : WP(C)/1086/2024

LAL MAHMUD
S/O LATE ABUL KASHEM, R/O VILL-RUBHI, P.O.-BALIKURI, P.S.-
KALGACHIA, DIST-BARPETA, ASSAM, PIN-781319

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, SECONDARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI-6

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

3:THE DEPUTY DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

4:THE MISSION DIRECTOR
SAMAGRA SHIKSHA
ASSAM
KAHILIPARA
GUWAHATI-19

5:THE INSPECTOR OF SCHOOLS
BARPETA DISTRICT CIRCLE
BARPETA
DIST-BARPETA
ASSAM

PIN-781301

6:THE DEPUTY COMMISSIONER
BARPETA
DISRT-BARPETA
ASSAM
PIN-781301

7:MAZEDUL ISLAM @ MAZIDUL ISLAM
PRESIDENT
SMDC OF BALIKURI ANCHALIK HIGH SCHOOL
S/O RAHMATULLAH
R/O VILL- BALIKURI K
P.O.-BALIKURI
DIST- BARPETA
ASSAM
PIN-78131

Advocate for the Petitioner : MR. I H LASKAR

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

25.04.2024

Heard Mr. P.K. Deka, learned counsel for the petitioner. Also heard Ms. D. Mushahary, learned Standing Counsel, Secondary Education Department and Mr. J. Abbas, learned counsel for the respondent no.7.

2] This writ petition has been filed by the petitioner who was serving as the In-charge Head Master of Balikuri Anchalik High School, Barpeta. The petitioner during his service was placed under suspension by order dated 16.02.2024

issued by the Director of Secondary Education. By the said order pending drawl of the departmental proceedings, the petitioner as Assistant Teacher and Head Master In-charge of Balikuri Anchalik High School, District Barpeta was placed under suspension as per provisions of Rule 6 (i) of the Assam Services (Discipline & Appeal) Rules, 1964. During this period of suspension, the petitioner is entitled to be paid subsistence allowance. The learned counsel for the petitioner submits that a preliminary enquiry was undertaken by the Inspector of Schools and on the basis of the enquiry report dated 15.02.2024, which is based on incorrect facts, the petitioner was placed under suspension law. Learned counsel for the petitioner submits that as many as 3 (three) enquiries were conducted by the Inspector of Schools. The first enquiry on 24.07.2023 was conducted by the Inspector of Schools, the second enquiry was conducted on 06.10.2023 by the Planning Assistant, Inspector of Schools, BDC, Barpeta, Senior Accountant, RMSA, Barpeta and Inspector of Schools, BDC, Barpeta and the third enquiry was conducted on 13.02.2024 by the District Account Officer, Block Accountant, Senior Accountant and PSO in the Inspector of Schools Office. On the basis of these enquiries several allegations were brought against the petitioner including the financial irregularities and as a consequence there of the petitioner was placed under suspension. The petitioner is presently under suspension and no review as yet for continuation of

the suspension has been undertaken by the respondent authority. It is further submitted by the learned counsel for the petitioner that Departmental Proceedings have been initiated by issuance of a show notice dated 28.02.2024. In response to the show-cause notice the petitioner had also filed his reply. The learned counsel for the petitioner submits that all these allegations against the petitioner are false concocted and not based on correct facts and the petitioner is a victim of a conspiracy by his adversaries and the order of suspension is totally uncalled for. Therefore, learned counsel for the petitioner urges that the impugned suspension dated 16.02.2024 issued by the Director of Secondary Education be set aside, interfered with and quashed.

3] Ms. D. Mushahary, learned Standing Counsel, Secondary Education Department submits that the Departmental Proceedings have already been initiated and the petitioner has also responded to the said show-cause by filing his reply. As such, at this stage, no interference is called for as the authority considers it appropriate to keep the petitioner under suspension till the completion of the Departmental Proceedings.

4] Mr. J. Abbas, learned counsel for the respondent no.7 submits that he has filed an affidavit stating that the respondent no.7 is no longer the President of the School Management and Development Committee of Balikuri Anchalik High

School, Barpeta. Learned counsel for the respondent no.7 further submits that the allegation made against the respondent no.7 that he has filed a false complaint against the petitioner is denied.

5] Having heard the learned counsel for the parties and upon perusal of the pleadings on record, this Court is of the considered view that since the impugned suspension order was issued on 16.02.2024 and in the meantime, the Departmental Proceedings have already been initiated by issuance of the show-cause notice to which the petitioner has also filed a reply, it would be more appropriate for the authorities to hold a review and decide whether further continuation of the suspension of the writ petitioner is necessary or not. As such, this writ petition is closed with the direction to the respondents, more particularly, the respondent no.2, namely, the Director of Secondary Education, to undertake the process of the review to decide whether the further continuation of suspension of the writ petitioner is called for and If any decision to that effect is taken for continuation of suspension, then a copy thereof shall be served on the writ petitioner. It is also directed that the disciplinary proceeding initiated against the writ petitioner should also be expeditiously carried on and concluded. The review of the suspension should be carried out before 16.05.2024 by passing necessary orders. In the event the authorities find that further continuation of the suspension is not required, the concerned

authorities will reinstate the petitioner in service by providing him all the service benefits entitled to him as per law.

6] With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant