

GAHC010051102024



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

Case No. : WP(C)/1052/2024

REZZAK HOSSAIN
S/O ABDUL MOZID PRODHANI

RESIDENT OF VILLAGE BINNACHARA PART I
PO BALADOBA
PS GOLAKGANJ
DIST DHUBRI
ASSAM 783354

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM
ELEMENTARY EDUCATION DEPARTMENT
DISPUR GUWAHATI 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM

KAHILIPARA GUWAHATI 19
3:THE MISSION DIRECTOR SSA

ASSAM
KAHILIPARA
GUWAHATI 19
4:THE DEPUTY COMMISSIONER

DHUBRI
ASSAM 783301
5:THE DISTRICT ELEMENTARY EDUCATION OFFICER (DEEO)
DHUBRI
ASSAM 783301
6:THE B.E.E.O GOLAKGANJ

GOLAKGANJ
DHUBRI
ASSAM 783334
7:THE HEADMASTER CUM MEMBER SECRETARY
BERBHANGI M.E MADRASSA VILLAGE BERBHANGI PART II
PO BALADOBA
DIST DHUBRI
ASSAM 783334
8:THE SCHOOL MANAGING COMMITTEE

REPRESENTED BY THE PRESIDENT OF THE BERBHANGI M.E MADRASSA
VILLAGE BERBHANGI PART II
PO BALADOBA
DIST DHUBRI
ASSAM 783334
9:MOFIJUL HOQUE
S/O LATE KASIMUDDIN SHEIKH

RESIDENT OF BINNACHARA PART I
PO BALADOBA
PS GOLAKGANJ
DIST DHUBRI
ASSAM 783334

Advocate for : MR M A ISLAM
Advocate for : SC
ELEM. EDU appearing for THE STATE OF ASSAM AND 8 ORS

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 18.06.2024

Heard Mr. M. A. Islam, learned counsel for the petitioner. Also heard Ms. S. Chutia, learned counsel for the respondents no. 1, 2, 5 & 6 and Mr. P. Saikia, learned counsel for the respondent no. 4; Ms. S. Bora, learned Standing Counsel for the SSA appearing for the respondent no. 3 as well as Mr. R. Islam, learned counsel for the respondent no. 9.

None has appeared for the respondents no. 7 & 8.

The grievance raised in the present proceedings pertains to the approval granted by the District Elementary Education Officer (DEEO), Dhubri, vide the communication dated 20.02.2024 for constitution of the School Managing Committee (SMC) of Berbhanggi M.E. Madrassa with the respondent no. 9 as its President. It is the contention of the petitioner that the resolution as approved vide the communication dated 20.02.2024 was arrived at in the general meeting of the parents, guardians and local people of Berbhanggi M.E. Madrassa held on 12.12.2023, wherein the petitioner herein was recommended as the President of the SMC, however, without the said resolution being amended and or, a fresh resolution being taken in the matter, the DEEO, Dhubri without jurisdiction had proceeded to approve the SMC of the school vide the communication dated 20.02.2024 with the respondent no. 9 as its President.

Both the learned counsel for the respondent no. 9 as well as S. Chutia, learned Standing Counsel has submitted that after the meeting convened by the school authorities on 12.12.2023, there were developments taking place in the matter and the DEEO, Dhubri in view of the complaints received, had conducted a hearing on 29.12.2023 in the matter and thereafter only the impugned order dated 20.02.2024 was issued.

It is contended that subsequent to the resolution adopted by the school authorities on 12.12.2023, the parties had thereafter conducted a process of selection in the presence of the DEEO, Dhubri wherein the respondent no. 9 is stated to be selected as the President of the SMC of the said school. However, on perusal of the communication dated 20.02.2024, by which the DEEO, Dhubri had granted his approval to the constitution of the

SMC of the school in question, the said aspects of the matter are not reflected and the same is solely based on the minutes as adopted in the general meeting of the parents, guardians of the school in question held on 12.12.2023. The developments as stated to have taken place in the matter after the holding of the said meeting on 12.12.2023 has also not been brought on record.

In view of the above and as agreed to by the learned counsel for the parties to the proceeding, the impugned order dated 20.02.2024 stands interfered with.

On account of the interference made with the order dated 20.02.2024, the SMC as constituted in the matter would now become non-functional.

The post of President of the SMC would now be held by the DEEO, Dhubri and/or a, departmental official nominated by him in this connection. The DEEO, Dhubri is further directed to constitute a SMC for the said school, strictly, in accordance with the provisions of the "Assam Right of Children to Free and Compulsory Education Rules, 2011 more particularly, Rule 13 thereof.

The said exercise shall be initiated and completed by the DEEO, Dhubri within a period of 2(two) months from the date of receipt of a certified copy of this order.

Accordingly, the writ petition stands disposed of.

JUDGE

Comparing Assistant