

GAHC010058532023



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

Case No. : WP(C)/1575/2023

CHAN ALI SHEIKH
S/O- LATE JOHIR UDDIN SK, R/O- MACHIPARA PT-I, P.O. BONDIHANA, P.S.
FAKIRGANJ, DISTRICT- DHUBRI, ASSAM, PIN- 783349

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GUWAHATI, PIN- 781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM
KAHILIPARA GUWAHATI PIN- 781019

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER DHUBRI
ASSAM PIN- 783301

4:BLOCK ELEMENTARY EDUCATION OFFICER BILASIPARA
EDUCATION BLOCK DIST.- DHUBRI ASSAM PIN- 783348

5:MD RAFIQUZZAMAN IN- CHARGE HEAD MASTER CUM SCIENCE
TEACHER ADDRESS- MACHIPARA PT-II P.O. BONDIHANAM
P.S. FAKIRGANJ DIST.- DHUBRI ASSAM PIN- 78334

Advocate for the Petitioner : MR. T DEURI
Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 09.01.2024

Heard Mr. T. Deuri, learned counsel, appearing on behalf of the petitioner. Also heard Mr. B. Talukdar, learned standing counsel, Elementary Education Department, appearing on behalf of the official respondents.

The petitioner by way of instituting the present writ petition, has presented a challenge to the order, dated 09.03.2023 (Annexure-6 to the petition), issued by the Director, Director, Elementary Education Department, Government of Assam, by which the respondent No. 5 was allowed to hold the charge of the post of Head Master of Machipara ME Madrassa. The writ petitioner was initially appointed as an Assistant Teacher in 1667 No. Machipara Lower Primary School and he came to be appointed in the Machipara ME Madrassa on amalgamation of 1667 No. Machipara Lower Primary School with Machipara ME Madrassa.

It is the case of the petitioner that he was vide order, dated 17.10.2022, issued by the District Elementary Education Officer (DEEO), Dhubri, allowed to function as in-charge Headmaster of Machipara ME Madrassa along with financial power. It is the grievance of the petitioner that the charge so given to him, without affording an opportunity of hearing to him, was subsequently withdrawn and the private respondent No. 5 was allowed to function as in-charge Headmaster of Machipara ME Madrassa.

Mr. Talukdar, learned standing counsel, Elementary Education Department, Government of Assam, by placing an instruction issued by the District Elementary Education Officer (DEEO), Dhubri, by which the justification for issuance of the order, dated 09.03.2023, was made, was brought on record.

The respondents have justified the action of allowing the private respondent No. 5 to hold the charge of the post of Headmaster of the school in question, on the ground that he was appointed as a teacher of the Upper Primary School and the petitioner being a teacher appointed originally in the Lower Primary School; there is no provision for allowing a Lower Primary School Teacher to be appointed as a

Headmaster of the Upper Primary School. It is further contended that the educational qualification of an Assistant Teacher in a Lower Primary School is Higher Secondary pass while the same is graduation for an Assistant Teacher in a Upper Primary School.

The difference of pay has also been highlighted to be one of the grounds for which the respondent No. 5 was preferred to hold the charge of Headmaster of Machipara ME Madrassa. On amalgamation of a Lower Primary School with an Upper Primary School, the LP school Teacher teaches classes from Classes 1 to 5 whereas the UP School Teacher teaches classes from Classes 1 to 8.

I have considered the reasons assigned by the respondents towards justifying their action in allowing the private respondent No. 5 to hold the charge of the post of Headmaster of Machipara ME Madrassa and I am satisfied with the reasons assigned by the respondents therein, and as such, basing on the same; the challenge presented by the petitioner to the impugned order, dated 09.03.2023, in this writ petition, is hereby rejected.

The writ petition accordingly stands dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant