

GAHC010059372024



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

Case No. : I.A.(Civil)/907/2024

MD. SAIFUL ISLAM
R/O VILL- TEKELIPUTA, P.S.-SAMAGURI, DIST-NAGAON, ASSAM, PIN-
782140

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY, GOVT OF ASSAM, DEPARTMENT OF
SCHOOL EDUCATION, ASSAM, GHY-06

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY-9

3:THE DISTRICT DEVELOPMENT COMMISSIONER
NAGAON
AND DMC
SSA
NAGAON
DIST-NAGAON
ASSAM
PIN-782001

4:THE DISTRICT COMMISSIONER
NAGAON DISTRICT
NAGAON
ASSAM
PIN-782001

5:THE INSPECTOR OF SCHOOLS
NDC

NAGAON
DIST-NAGAON
ASSAM
PIN-782001

6:THE HEADMASTER
MUWAMARI HIGH SCHOOL
MUWAMARI
DIST-NAGAON
ASSAM
PIN-782140

7:JAHANGIR HUSSAIN

S/O LT. HASEN ALI
R/O VILL- TEKELIPOTA
P.S.-SANAGURI
P.O.-MUWAMARI
DIST-NOGAON
ASSAM
PIN-78214

Advocate for the Petitioner : MR. Z HAMMAD

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 04.04.2024

Heard Mr. Z. Hammad, learned counsel for the applicant. Also heard Mr. J. Kalita, learned counsel for the opposite party no. 7/writ petitioner.

The applicant by way of instituting the present application has prayed for vacation/modification of the order dated 04.03.2024, passed by this Court in WP(C)/1095/2024.

It is the contention of the applicant that the petitioner in the writ petition had not disclosed the fact that he was replaced in the post of President of the SMDC of Muwamari High School pursuant to an enquiry conducted into the matter at the instance of the jurisdictional District Commissioner, Nagaon, Assam.

It is also contended by the applicant that materials adverse to the opposite party no. 7/writ petitioner having coming on record, the District Commissioner, Nagaon, Assam vide the order dated 14.02.2024, proceeded to appoint the applicant as the President of SMDC of the said school in question in place of the opposite party no. 7/writ petitioner. It is further contended by the learned counsel for the applicant that interim directions were passed by this Court vide the order dated 04.03.2024, on the submission by the opposite party no. 7/writ petitioner that he was not issued with any notice in the matter before the action adverse to him was taken.

By referring to the materials available on record, it is contended by the learned counsel for the petitioner that in pursuance to a complaint made in the matter before the concerned authorities, an enquiry was held as directed by the jurisdictional District Commissioner and the opposite party no. 7/writ petitioner also appeared in the said enquiry and in terms of the report as prepared by the jurisdictional Circle Officer in the matter in pursuance to such hearing held, the order impugned in the writ petition came to be issued.

Mr. J. Kalita, learned counsel for the opposite party no. 7/writ petitioner submits that his removal was in pursuance to a No-confidence motion, which was contended to have been passed on 30.09.2023 and such No-confidence

motion was passed without any notice to him. It is further contended that in pursuance to the interim directions passed by this Court on 04.03.2024, he has not been permitted to continue as the President of SMDC of the school in question.

I have heard the learned counsels appearing for the parties and perused the materials available on record.

On considering the rival contentions as made by the parties to the proceeding and also examining the materials available on record, it is seen that there are certain allegations leveled against the opposite party no. 7/writ petitioner, for which an enquiry was held and in terms of the materials coming on record in the said enquiry, the jurisdictional District Commissioner, Nagaon had proceeded to issue the order dated 14.02.2024, replacing the opposite party no. 7/writ petitioner with the present applicant as the President of SMDC of the school in question.

The rival contentions as made in the matter would require a detail consideration, however, given the fact that certain allegations have been leveled against the opposite party no. 7/writ petitioner with regard to his functioning as the President of SMDC of the school in question, this Court is of the considered view that the interim dated 04.03.2024 is required to be modified.

Accordingly, the order dated 04.03.2024, is hereby modified to the extent that the opposite party no. 7/writ petitioner shall not be permitted, until further order(s) of this Court to function as the SMDC of Muwamari High School. Further, it is also directed that the applicant shall also not be permitted to function as the President of SMDC of the school in question.

The post of President of SMDC of the school in question shall now be held by a departmental officer to be nominated by the Inspector of Schools, Nagaon.

With the above modification, the Interlocutory application stands disposed of.

JUDGE

Comparing Assistant