

GAHC010063532023



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

I.A.(Civil)/921/2023
WP(C) No. 1663/2023

GEETASHREE DAS
SUBJECT TEACHER OF SWARNA LAKSHMI HIGHER SECONDARY SCHOOL
NARSHINGPUR
DIST. CACHAR
ASSAM
PIN- 788115.

VERSUS

RITA RANI ROY AND 4 ORS
W/O- SANTANU ROY
R/O- SHYAMANANDA ASHRAM ROAD
DIST. CACHAR
ASSAM
PIN- 788005.

2:THE STATE OF ASSAM

REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
SECONDARY EDUCATION DEPARTMENT
DISPUR
GUWAHATI-6.

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

4:THE INSPECTOR OF SCHOOLS
CACHAR
CACHAR DISTRICT CIRCLE
SILCHAR
ASSAM
PIN- 788001.

5:THE NATIONAL COUNCIL FOR TEACHER EDUCATION
THROUGH THE CHAIRPERSON
HANS BHAWAN (WING II)
1 BAHADUR SHAH ZAFAR MARG
NEW DELHI-110002.
6:ASSAM UNIVERSITY
REPRESENTED BY ITS
REGISTRAR.
SILCHAR-788015.

Advocate for : MR. S K DAS
Advocate for : SC
EDU appearing for RITA RANI ROY AND 4 ORS

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

01-05-2024

Heard Shri S. K. Das, learned counsel for the applicant/respondent no. 5, who by means of this application has prayed for vacation/alteration/modification of the *ex-parte* interim order dated 23.03.2023 passed in the connected WP(C) No. 1663/2023.

It is contended by the learned counsel for the applicant that the only consideration of the Court while passing the interim order was that the applicant/respondent no. 5 did not have the requisite eligibility of BEd. Degree from a recognized NCTE Institute and therefore the order dated 30.01.2023 of allowing the applicant to hold the post of In-charge Principal of the Swarna Lakshmi Higher Secondary School, Narsingpur, Silchar, Cachar was suspended. Shri Das, the learned counsel has clarified that the said observation was on the basis of an order dated 24.01.2020 of the Commissioner and Secretary, Secondary Education Department which however was set aside by this Court in WP(C) No. 1740/2020 vide order dated 19.10.2023.

Shri I. H. Saikia, the learned counsel for the opposite party/writ petitioner has however submitted that the removal of the writ petitioner without holding an enquiry is the issue and without resolving the said issue, vacation of the interim order would cause prejudice to him. He further submits that since his client was holding the post on In-charge basis, it should not be replaced by another In-charge arrangement.

Shri Das, the learned counsel for the applicant in his rejoinder has submitted that the order of this Court setting aside the order dated 24.01.2020 of the Commissioner and Secretary was unsuccessfully challenged by another party before the Division Bench. He further submits that there is also an observation by this Court in this proceeding that the charge of the School would be in the hands of the concerned Inspector of Schools. He has also informed this Court that a contempt petition was filed *qua* the original order of this Court by which the order dated 24.01.2020 was set aside.

Considering the aforesaid facts and circumstances, this Court is of the opinion that when the very basis of passing the interim order dated 23.03.2023 is not existing, such interim order cannot be allowed to continue.

Accordingly, the interim order dated 23.03.2023 passed in the connected writ petition being WP(C) No. 1663/2023 stands vacated.

It is further made clear that the authorities would be at liberty to post the applicant as Principal of the School in question on regular basis.

JUDGE

Comparing Assistant