

GAHC010079262022



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

Case No. : WP(C)/2810/2022

BADRUL ISLAM
S/O. LT. AZIM UDDIN BEPARI, VILL. BERBHANGI PT-1, P.O. DIMAKURI, P.S.
GOLAKGANJ, DIST. DHUBRI, ASSAM.

VERSUS

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

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

3:THE INSPECTOR OF SCHOOLS
DHUBRI DISTRICT CIRCLE (DDC)
DHUBRI DIST. DHUBRI ASSAM.

4:THE HEADMASTER OF BERBHANGI HIGH SCHOOL
P.O. BERBHANGI
DIST. DHUBRI
ASSAM PIN-783334.

5:PHANINDRA NATH ROY
S/O. UPENDRA CH. ROY
VILL. NALIYA PT-2
P.O. DIMAKURI
P.S. GOLAKGANJ
DIST. DHUBRI
ASSAM PIN-783334

Advocate for the Petitioner : MR. A AHMED
Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 08.02.2024

Heard Mr. A. Ahmed, learned counsel for the petitioner. Also heard Mr. S. M. T. Chistie, learned standing counsel, Secondary Education Department, appearing on behalf of respondents No. 1, 2 & 3.

Although notice has been issued upon the respondents No. 4 & 5, but, none has entered appearance on behalf of the said respondents. As consented to by the learned counsels appearing for the parties; this writ petition is taken-up for disposal.

The petitioner by way of instituting the present writ petition, has presented a challenge to a Notification, dated 29.03.2022, issued by the Deputy Commissioner, Dhubri, to the extent that it nominates the private respondent No. 5 as the President of the School Management & Development Committee (SMDC) of Berbangi High School.

The petitioner in this writ petition, has raised an allegation that the respondent No. 5 is not eligible to be considered for appointment as the President of the School Management & Development Committee(SMDC) of the said school on the ground that he had contested election at the Panchayat level, which was contended to be a bar under the guidelines holding the field in the matter.

In this context, Mr. Ahmed, learned counsel for the petitioner, refers to a

criteria as prescribed under the Government Notification, dated 24.06.2016, which mandates that any person who has contested any election at panchayat level/Parliament or Assembly Election for the last 20 years, should not be considered for the post of President/Vice-President even if he/she fulfills all other criterias as mandated for the post.

The petitioner has brought on record in this writ petition, a copy of the list of validly nominated candidates signed by the Presiding Officer, Dhubri Panchayat Election for the year 2012-2013 and therein, the name of the respondent No. 5 i.e. Shri Phanindra Nath Roy, appears as one of the candidates, contesting for the post of Anchalik Panchayat Member of 8-Rupshi Anchalik Panchayat. In that view of the matter, the nomination of the respondent No. 5 as the President of the School Management & Development Committee(SMDC) of the school, in question, would be in violation of the guidelines holding the field.

At this stage; it is also to be noted that the respondent No. 4, vide his communication, dated 02.03.2023, sent to the Assistant Registrar(in-charge), Civil Rule(Pending) Section, Gauhati High Court, Guwahati, has forwarded his para-wise comments and therein, in paragraph No. 6, he contends that the respondent No. 5 had in fact contested the Panchayat Election in the year 2013 from 93 No. Nalia Gaon Panchayat as Member for the Anchalik Panchayat and as such, the selection of the respondent No. 5 is not made in accordance with the guidelines as formulated by the Government in this connection.

In view of the said position and it being confirmed from the documents brought on record by the petitioner as well as the contentions raised by the

respondent No. 4 in his para-wise comments forwarded to this Court, that the respondent No. 5 had in fact participated during the year 2012-13 in the Panchayat level election; this Court is of the considered view that the respondent No. 5 is not qualified to hold the post of the President of the School Management & Development Committee (SMDC) of the school, in question.

Accordingly, the nomination of the respondent No. 5 as the President of the School Management & Development Committee (SMDC) of the school, in question, as effected vide Notification, dated 29.03.2022, by the Deputy Commissioner, Dhubri, stands interfered with.

In view thereof; the respondent authorities are now directed to nominate the President of the School Management & Development Committee(SMDC) of the school, in question, strictly in accordance with the guidelines holding the field. Till such nomination for the post of President of the School Management & Development Committee(SMDC) of the said school, is made; the jurisdictional Inspector of Schools shall hold the charge of the post of the President of the School Management & Development Committee(SMDC) of the school, in question.

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

JUDGE

Comparing Assistant