

GAHC010123942023



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

Case No. : WP(C)/3310/2023

AMZAD HUSSAIN
S/O- LATE DAROG ALI,
VILL- SHOWRACHARA GAON,
P.O.- CHIKNI,
P.S.- KALGACHIA,
DIST- BARPETA (ASSAM),
PIN- 781321.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
SECONDARY EDUCATION DEPARTMENT, DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI- 781019.

3:THE DEPUTY COMMISSIONER BARPETA
DIST- BARPETA ASSAM PIN- 781301.

4:THE ADDL. DEPUTY COMMISSIONER (EDUCATION) BARPETA
DIST.- BARPETA ASSAM PIN- 781301.

5:THE INSPECTOR OF SCHOOLS B.D.C. BARPETA
P.S.- AND DIST.- BARPETA ASSAM PIN- 781301.

6:THE PRINCIPAL SHAWRACHARA M.K.H.S. SCHOOL
P.O.- CHIKNI P.S.- KALGACHIA
DIST- BARPETA ASSAM. PIN- 781321

Advocate for the Petitioner : MR. M ALI
Advocate for the Respondent : SC, SEC. EDU.

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

ORDER

Date : 29.01.2024

The petitioner, herein, has presented a challenge to an order, dated 11.05.2023, by which he was removed from the post of School Management and Development Committee(SMDC) of Shawrachara M.K. H.S. School, on the ground that he had crossed the age of 66 years on the date he was so appointed i.e. 09.01.2023.

The petitioner being desirous of being the President of the school, in question, had submitted his candidature for the said post and accordingly, the Principal of the said school vide his communication, dated 04.10.2021, forwarded the names of the petitioner and 2(two) others for the post of President along with the names of the persons shortlisted for the post of Vice-President to the jurisdictional Inspector of Schools. Thereafter, the matter was processed and vide order, dated 09.01.2023, the petitioner came to be nominated as the President of the School Management and Development Committee(SMDC) of the said school.

It is to be noted that from the materials available on record, it is clear that the date of birth of the petitioner is 01.01.1957 and accordingly, he would attain the age of 65 years as on 01.01.2022. The appointment of the petitioner had occasioned on 09.01.2023.

A perusal of the provisions of the guidelines for constitution of the School Management and Development Committee(SMDC) as contained in the Notification, dated 27.06.2016, would reveal that a President and a Vice-President to be eligible for such appointment should not be more than 65 years of age. The said prescription would mean that on the date when a person is actually appointed as a President of the School Management and Development Committee (SMDC), he should not have crossed the age of 65 years.

In the case in hand, the petitioner on the date of his nomination as the President of the School Management and Development Committee(SMDC) of the said school i.e. on 09.01.2023, he had already crossed the age of 65 years and rather, had become around 66 years of age.

In view of the prescription made in the Notification, dated 27.06.2016, and there being no allegation made against any authority of any mala fide behind the delay occasioning in considering the recommendations made by the Principal of the said school on 04.10.2021 by the concerned authorities towards nominating the petitioner as the President, School Management and Development Committee(SMDC) of the school, in question, the challenge of the petitioner to the order, dated 11.05.2023, cannot be accepted.

In that view of the matter, there is no error in the order, dated 11.05.2023, and accordingly, the same does not call for any interference.

In view thereof, the instant writ petition stands dismissed. However, there shall be no order as to costs.

Interim order, if any, stands vacated.

JUDGE

Comparing Assistant