

GAHC010141562019



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

Case No. : WP(C)/4334/2019

MRIDUL KUMAR LASKAR
S/O- LATE KALIPRASHAD LASKAR, HEADMASTER, DAKSHIN KAMPUR
HIGH SCHOOL, P.O AND P.S- KAMPUR, DIST- NAGAON, PIN- 782426, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
EDUCATION (SECONDARY) DEPTT, DISPUR, GUWAHATI- 06

2:JOINT SECRETARY TO THE GOVT OF ASSAM
EDUCATION SECONDARY DEPTT
DISPUR
GHY- 06

3:DIRECTOR OF SECONDARY EDUCATION DEPTT
ASSAM
KAHILIPARA
GUWAHATI- 19
ASSA

Advocate for the Petitioner : MR. T J MAHANTA

Advocate for the Respondent : SC, SEC. EDU.

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

ORDER

Date : 10.01.2024

Heard Mr. D. Mahanta, learned counsel, appearing on behalf of the petitioner. Also heard Mr. U. Sarma, learned standing counsel, Secondary Education Department, appearing on behalf of the official respondents.

The present writ petition has been filed by the petitioner assailing a communication, dated 06.04.2019, issued by the Commissioner and Secretary to the Government of Assam, Secondary Education Department, by which, taking note of the misbehaviour of the petitioner towards the lady teachers of Dakshin Kamrup High School, a warning was issued to him to stop such practices or use of abusive words or humiliate them publicly in the presence of guardians, students, immediately.

It is the case of the writ petitioner that the allegations which finally led to an issuance of the warning against him were never furnished to him and he was never given opportunity to counter the same. The petitioner was required to file a written statement without being served with any show cause. The petitioner filed a reply highlighting the steps taken by him after he had assumed the charge of the post of in-charge Headmaster of the school, in question. It is the further allegation of the petitioner that a hearing was conducted in the matter by a Joint Secretary, Secondary Education Department, but it is seen that the order was passed by the Commissioner and Secretary to the Government of

Assam, Secondary Education Department, who had never heard the petitioner in the matter.

In the said view of the matter, the whole proceeding having been so done in clear violation of the principles of natural justice and in violation of the provisions as contained in the Assam Services (Discipline and Appeal) Rules, 1964, more particularly, Rule 9 thereof; the impugned communication, dated 06.04.2019, is hereby interfered with.

However, on consideration of the written instructions, dated 09.01.2024, produced by Mr. Sarma, learned standing counsel, Secondary Education Department, before this Court today as well as the nature of allegations leveled against the petitioner finding mention in the communication, dated 06.04.2019; the interference with the impugned communication, dated 06.04.2019, being purely on technical grounds, will not exonerate the petitioner from such allegations.

In view of the above position, this writ petition is hereby disposed of by requiring the Secretary to the Government of Assam, Secondary Education Department, to consider the allegations available against the petitioner on record and if a misconduct is borne out thereon against the petitioner, to initiate the Departmental Proceedings against the writ petitioner strictly in accordance with the provisions of Rule 9 of the Assam Services(Discipline and Appeal) Rules, 1964, within a period of 1(one) month from today.

Mr. Sarma, learned standing counsel, Secondary Education Department, shall communicate a copy of this order to the Director, Secondary Education Department, for doing the needful.

The writ petition accordingly stands disposed of with the above directions and observations.

JUDGE

Comparing Assistant