

GAHC010157772022



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

Case No. : WP(C)/5219/2022

BADRUL HAQUE AND 2 ORS.
S/O LT. ABDUR RAHMAN
R/O VILL- RANIRGRAM, P.O. JALALNAGAR T.E.
P.S. AND DIST. KARIMGANJ

2: ABDUR ROUF
S/OLATE TAFAZZUL ALI
R/O VILL AND P.O. BRAHMANSASHAN
P.S. NILAMBAZAR
DIST. KARIMGANJ

3: NISAR AHMED
S/O LATE SAJAFAR ALI
VILL- NALUA
P.O. JALALNAGAR TE
P.S. AND DIST. KARIMGAN

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY (SECONDARY EDUCATION
DEPARTMENT, DISPUR, GUWAHATI-06.

2: THE DIRECTOR
SECONDARY EDUCATION

SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3: THE INSPECTOR OF SCHOOLS

KDC

KARIMGANJ

DIST. KARIMGANJ

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER

KARIMGANJ
DIST. KARIMGANJ
PIN-788710

5:BLOCK ELEMENTARY EDUCATION OFFICER

KARIMGANJ
DIST. KARIMGANJ

Advocate for the Petitioner : MR H R A CHOUDHURY, MR. M A CHOUDHURY,MR F U BARBHUIYA

Advocate for the Respondent : SC, SEC. EDU.,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

09-09-2024

Heard Mr. H R A Choudhury, learned Senior counsel assisted by Mr. M A Choudhury, learned counsel for the petitioners and Ms. H Terongpi, learned Standing counsel, Secondary Education Department, Assam for the respondent Nos. 1, 2 and 3. Also heard Ms. B Deka, learned Standing counsel, Elementary Education Department, Assam for the respondent Nos. 4 & 5.

2. Towards their better administration, management and to impart education to the students, the State Government in its Secondary Education Department by the Office Memorandum No. ASE 481/2016/164 dated 03.08.2021 brought into force a Scheme, namely, "Siksha Khetra" for amalgamation and merger of different provincialised Lower Primary, Upper Primary, High and Higher Secondary Schools with a Base School of the State.

3. Clause-7 (3) of said O.M. dated 03.08.2021 provides that – *the name of the highest-level school in which all other schools are amalgamated, shall stand. The highest-level school,*

hereinafter, shall be termed as Base School.

4. Pursuant to the order of the State Government in the Secondary Education Department issued vide No. ASE.23/2022/75 dated 18.02.2022 and in pursuance of the provisions of said Siksha Khetra Scheme dated 03.08.2021, the Director of Secondary Education (DSE), Assam vide order No. DSE/GIS/Amal/16/2021/78 dated 29.03.2022 directed for amalgamation of Krishnanagar Ranigram M.V. School of District-Karimganj with the Base School Ahmedia High School of District-Karimganj and in the said order of the DSE, Assam dated 29.03.2022 it was specifically provided at Clause-2 that after amalgamation/merger, the name of the school shall be Ahmedia High School.

5. Later by another order, the DSE, Assam vide No. DSE/GIS/Amal/16/2021/91 dated 01.06.2022 cancelled its earlier order No. DSE/GIS/Amal/16/2021/78 dated 29.03.2022 and issued a fresh order for amalgamation of Krishnanagar Ranigram M.V. School of District-Karimganj with the Base School Ahmedia High School, District-Karimganj specifying that after amalgamation/merger the name of the school shall be Krishnanagar Ranigram High School.

6. Aggrieved with the same, whereby after amalgamation of Krishnanagar Ranigram M.V. School with Ahmedia High School, said amalgamated High School was renamed as Krishnanagar Ranigram High School, the petitioners filed this writ petition on 08.08.2022 challenging the said order of the DSE, Assam dated 01.06.2022, noted above. The Court while issuing notice to the respondents by order dated 12.08.2022 in the interim suspended the order of the DSE, Assam dated 01.06.2022 issued under No. DSE/GIS/Amal/16/2021/91 renaming the amalgamated school as Krishnanagar Ranigram High School and it is still in force.

7. The petitioners herein are, resident of Ranigram, Brahmansashan, Nalua under the jurisdiction of Karimganj Police Station and Nilambazar Police Station, District-Karimganj. According to them, the local people in and around Ahmedia High School established a Madrassa by the name of Ahmedia Senior Madrassa at Jalalnagar Tea Estate that was provincialised in the year 1994 and pursuant to a Cabinet decision dated 13.12.2020, said Ahmedia Senior Madrassa was renamed as Ahmedia High School. Later, as per the Government Notification dated 07.04.2021, said Ahmedia Senior Madrassa started functioning

as Ahmedia High School as per the Government guidelines.

8. Pursuant to the Government Order dated 18.02.2022 and the Office Memorandum dated 03.08.2021 and as per the order of the DSE, Assam dated 29.03.2022, Krishnanagar M.V. School was amalgamated with Ahmedia High School and after such amalgamation named the amalgamated school as Ahmedia High School, which the DSE, Assam by order dated 01.06.2022 cancelled it and by issuing a fresh order dated 01.06.2022 amalgamated said Krishnanagar M.V. School with the Base School Ahmedia High School, renaming the said amalgamated school as Krishnanagar Ranigram High School.

9. The petitioners could not establish their locus standi as to how they are affected by the said order dated 01.06.2022 of the DSE, Assam renaming the amalgamated Krishnanagar Ranigram M.V. School with the Base School Ahmedia High School as Krishnanagar Ranigram High School, as neither their children are studying in the said school nor they are the members of the School Managing Committee of said Ahmedia High School and they also failed to place that they are the resident of the vicinity of said Ahmedia High School.

10. On perusal of the O.M. dated 03.08.2021 relating to the Siksha Khetra Scheme for amalgamation/merger of different provincialised schools under the State Government in the Education Department, it can be seen that Clause-14 of the said O.M. dated 03.08.2021 provides that – *While taking into consideration of amalgamation or merger of schools, the newly converted Upper Primary Schools, High Schools, and Higher Secondary Schools from the Madrassa Institutions, shall have to be taken with equal footing.*

11. Further, Clause 15(b) of the said Siksha Khetra Scheme dated 03.08.2021, stipulates that – *The name of the Base School to which other schools are merged, shall stand. However, the joint session of all the School Managing Committees shall decide the name with the approval of the District Level Committee.*

12. On perusal of the said Scheme of Siksha Khetra dated 03.08.2021, it can be seen that there are – (a) Block Level Committee, both for Elementary and Secondary sectors, consisting of – (i) the District Elementary Education Officer as Chairman, (ii) all Block Elementary Education Officers of the district as members, (iii) two educationist preferably one retired Principal/Headmaster as members, (iv) one working Principal/Headmaster to be nominated by

the Inspector of Schools as member and (b) District Level Committee consisting of – (i) the Additional Deputy Commissioner in-charge of Education as Chairman, (ii) Inspector of Schools as Member-Secretary, (iii) the District Elementary Education Officer as member, (iv) one retired Principal of Higher Secondary or Senior Secondary School as member, (v) one working Principal of Higher Secondary School or Senior Secondary School as member and (vi) one working Head Master of High School as member.

13. As per Clause-17 of the said Siksha Khetra Scheme, such Block Level Committee and District Level Committee are constituted and they are required to find out the schools which are eligible for amalgamation/merger in view of the provisions of the Right of Children to Free and Compulsory Education Act, 2009, commonly known as the Right to Education Act (RTE), 2009 and the norms laid down by the Sarba Siksha Abhiyan.

14. From the impugned order No. DSE/GIS/Amal/16/2021/91 dated 01.06.2022 of the DSE, Assam, it can be seen that it does not state about any such joint session of the School Managing Committees of Krishnanagar Ranigram M.V. School and Ahmedia High School so as to name the amalgamed high school as Krishnanagar Ranigram High School and such decision taken in the joint session of the School Managing Committees have been approved by such District Level Committee of Karimganj District.

15. Moreover, at Clause-19 of said Siksha Khetra Scheme dated 03.08.2021 it is specifically provided that — *If any disputes arises out of the order, the aggrieved institution/public may appeal before the Government in the Secondary or Elementary Education Department, as the case may be.*

16. It can be seen that following the same, at Clause-10 of the order of the DSE, Assam dated 29.03.2022 amalgamating Krishnanagar Ranigram M.V. School with the Base School Ahmedia High School, it was specifically provided that – *in case, any dispute the OM as well as existing Government Rule and procedures etc. shall be followed.*

17. Similarly, in the impugned order dated 01.06.2022 of the DSE, Assam renaming the amalgamated Krishnanagar Ranigram M.V. School with the Base School Ahmedia High School as Krishnanagar Ranigram High School, at Clause-10, it is also provided that—*In case of any dispute the OM, (i.e., OM relating to Siksha Khetra dated 03.08.2021, noted above) as well as*

existing Government Rule and procedures etc. shall be followed.

18. Considering such provisions in the Siksha Khetra Scheme that relates to amalgamation and merger of different provincialised Schools with a Base School, the concerned public may approach the State Government in the Secondary Education Department, if so aggrieved with the order of renaming the amalgamated Krishnanagar Ranigram M.V. School with the Base School Ahmedia High School as Krishnanagar Ranigram High School stating their grievances, if any, with a prayer for stay of said order No. DSE/GIS/Amal/16/2021/91 dated 01.06.2022 issued by the Director of Secondary Education, Assam.

19. With the above observations and direction, this writ petition stands disposed of.

20. The interim order passed earlier in this proceeding on 12.08.2022, stands vacated.

JUDGE

Comparing Assistant