

GAHC010159892022



2024:GAU-AS:12591

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

Case No. : WP(C)/5239/2022

DEVANAND SINGH AND 3 ORS.
S/O- SRI BIRENDRA SINGH,
R/O- HOUSE NO. 2, N.S. ROAD,
CHAVIPOOL BILPAR,
P.S.- PALTAN BAZAR,
DISTRICT- KAMRUP(METRO), ASSAM,
PIN- 781008.

2: PRAMOD KUMAR JHA
S/O- SRI NAKCHHEDI JHA

R/O H.K. ROAD
TAKOBARI KALI MANDIR

P.S. PANBAZAR
DIST- KAMRUP(METRO)
ASSAM
PIN- 781001.

3: NAWAL KUMAR JHA
S/O LATE YOGI JHA

R/O- HOUSE NO. 77/A
H.K. ROAD
TAKOBARI KALI MANDIR

P.S. PANBAZAR
DIST- KAMRUP(METRO)
ASSAM.

4: PRAMOD KUMAR TIWARI
S/O- SHREE SHIV BIHARI TIWARI

R/O FANCY BAZAR

GUWAHATI
P.S.- PANBAZAR
DIST- KAMRUP(METRO)
ASSAM
PIN- 781001

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, SECONDARY EDUCATION DEPARTMENT, DISPUR, GUWAHATI-
6, ASSAM.

2:THE SECRETARY TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE DEPUTY COMMISSIONER
KAMRUP(METRO)
GUWAHATI-01.

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

5:THE INSPECTOR OF SCHOOLS
KDC
KAMRUP(METRO)
DISTRICT- KAMRUP(METRO)
ASSAM
PIN- 782001.

6:SMTI MALA DAS
HEADMISTRESS
LALCHAND ONKARMAL GOENKA HINDI HIGH SCHOOL

FANCY BAZAR
P.S.- PANBAZAR

DISTRICT- KAMRUP(METRO)
ASSAM
PIN- 781001.

7:SUBASH CHANDRA KAYAL
R/O- SRCB ROAD

NEAR- BHARTIYA JALPAN

FANCY BAZAR
GUWAHATI- 781001.

8:PANKAJ JALAN
R/O- SATI NIKETAN
S.C. ROAD

ATHGAON
GUWAHATI- 781001

Advocate for the Petitioner : MR F U BARBHUIYA, MS S DAS

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

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 12.12.2024

Heard Mr. F. U. Barbhuiya, learned counsel for the petitioners. Also heard Mr. N. J. Khataniar, learned standing counsel, Secondary Education Department, for the respondent Nos. 1, 2, 4 and 5 and Mr. B. Deuri, learned Govt. Advocate for the respondent No.3.

2. None appears for the respondent Nos. 6, 7 and 8 despite service of notice.
3. By this application, the petitioners are challenging the Communication dated 20.07.2022, written by the Inspector of Schools, Kamrup(M) District Circle by which the respondent Nos. 7 and 8 were nominated as President and Vice President of LOG Hindi High School. The Communication further indicates that the names of the President and Vice President has the approval of the Guardian Minister under the power conferred vide Government of Assam, Secondary Education Department Notification dated 27.10.2021.

4. It is the case of the petitioners that the Secretary to the Government of Assam, Secondary Education Department has issued a Notification dated 27.06.2016 which contains the guidelines for the selection process of President and Vice President of SMDC. The relevant portion is extracted herein below:

“SELECTION PROCESS OF PRESIDENT AND VICE-PRESIDENT OF SMDC –

The Inspector of Schools after consultation with the Principal/Head Master and local people will forward 2 names to the Director, Secondary Education, Assam for each President and Vice-President with the recommendation of the Deputy Commissioner within a period of 30 days. After considering the names, Director, Secondary Education, Assam will provide the List to the Government with his comment for selecting single name after comparing date of both the candidates and then Government will approve the committee. ”

5. The said Notification dated 27th of June, 2016 was partially modified by the Notification dated 27th of October, 2021, issued by the Principal Secretary to the Govt. of Assam, Secondary Education Department, whereby, the Deputy Commissioner was empowered to select the President and Vice President of the School Management and Development Committee (SMDC) of an educational institution of the concerned district with the approval of Guardian Minister.

6. The Inspector of Schools, Kamrup (District Circle) by a Communication dated 30th of September, 2021, requested all the Heads of Institution of Government and provincialised High/Higher Secondary/Senior Secondary Schools under the Kamrup(M) District to submit 2(two) names each for President and Vice President as per prescribed format and as per guidelines contained in the Notification dated 27.06.2016 for reconstitution of School Management and Development Committee on or before 04.10.2021. The LOG

Hindi High School accordingly had its General Body meeting along with the local people on 03.10.2021 and proposed the name of the petitioner Nos. 1 and 2 for the post of President and the petitioner Nos. 3 and 4 for the post of Vice President of the LOG Hindi High School. The Headmistress of the LOG Hindi High School accordingly forwarded their names to the Inspector of Schools, Kamrup(M), District Circle on 04.10.2021.

7. However, the Inspector of Schools Kamrup(M), District Circle by another Communication dated 11th of October, 2021 on the basis of a Communication dated 06.10.2021 received from the Director of Secondary Education, Assam, requested the Heads of Institutions of Government and provincialised High School/HS/Senior Secondary Schools under Kamrup(M) District to submit panel list of 4(four) persons each for President and Vice President of SMDC as per schedule format and acceptance format by 09.10.2021. Accordingly, the Headmistress of the LOG Hindi High School by a Communication dated 19.10.2021 submitted 4(four) names for the post of President of the SMDC including the name of the petitioner Nos. 1 and 2 and the 4(four) names for the post of Vice President including the name of the petitioner Nos. 3 and 4 in respect of the LOG Hindi High School.

8. However, the Inspector of Schools, Kamrup(M) District Circle by a Communication dated 20th of July, 2022 nominated the names of the respondent Nos. 7 and 8 for as the President and Vice President respectively of the said LOG Hindi High School.

9. Mr. F. U. Barbhuiya, learned counsel for the petitioner submits that the guidelines contained in the Notification dated 27th of June, 2016 clearly provides that the Inspector of Schools after consultation with the Principal/Headmaster

and local people will forward 2(two) names to the Director, Secondary Education, Assam for each President and Vice President with the recommendation of the Deputy Commissioner within a period of 30(thirty) days. However, the said Notification dated 27.06.2016 was modified by another Notification dated 27th of October, 2021, whereby, the Deputy Commissioner was empowered to select the President and Vice President of the School Management and Development Committee with the approval of the Guardian Minister. He accordingly submits that as per the guidelines only 2(two) names each for the post of President and Vice President was required to be send for being recommended for the post of President and Vice President. However, by the said Communication dated 20th of July, 2022, the Inspector of Schools, nominated the names of the respondent Nos. 7 and 8 who were never recommended by the General Body and the Local people of the LOG Hindi High School. This being in clear contravention of the Notification dated 27.06.2016 and the Notification dated 27.10.2021, the Communication dated 20th of July, 2022 requires to be set aside and the respondents be directed to reconstitute the SMDC of the LOG Hindi High School in terms of the recommendation made by the General Body and the local people of the LOG Hindi High School.

10. This Court has perused the Notification dated 27.06.2016 and 27.10.2021. A perusal of the materials available on record would indicate that the steps taken by the official respondents were in contravention of the guidelines provided in the Notification dated 27.06.2016 and 27.10.2021. A reading of the Notification dated 27.10.2021 clearly provides that it is the Deputy Commissioner who is empowered to select the President and Vice President of the School Management and Development Committee with the approval of the Guardian Minister.

11. In that view of the matter, the Communication dated 20th of July, 2022 written by the Inspector of Schools, Kamrup(M) and District Circle by which the respondent Nos. 7 and 8 were nominated to be President and Vice President respectively of the LOG Hindi High School is set aside and quashed.

12. The matter is now remanded back to the Deputy Commissioner Kamrup(M)/respondent No.3 to initiate steps for selection of the President and Vice President of the new SMDC of the LOG Hindi High School in accordance with the provisions of the Notification dated 27.06.2016 and 27.10.2021. While considering the matter, the respondent No.3 shall also consider the proposal dated 19.10.2021 sent by the Headmistress of the LOG Hindi High School which has been done in accordance with the resolution and proposal taken in the general meeting of the local people of the LOG Hindi High School held on 03.10.2021. Let such exercise be taken and completed within a period of 1(one) month from the date of receipt of a copy of the order of this Court.

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

JUDGE

Comparing Assistant