

GAHC010167652022



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

Case No. : WP(C)/5482/2022

1: ABDUL BATEN AND 6 ORS
(FORMER PRESIDENT SMC/ AND F/O. AZMAL SK, CLASS-III), S/O. LT.
HASEN ALI, VILL. KALAPAKANI PT-II, (BAILAR CHAR), P.O. PATAMARI,
DIST. DHUBRI, ASSAM, PIN-783324.

2: JARINA BIBI
(M/O. JOYNAL ABEDIN CLASSIV) W/O. ABDUL HYE SK VILL.
KALAPAKANI PT-II (BAILAR CHAR) P.O. PATAMARI DIST. DHUBRI ASSAM
PIN-783324.

3: SIDDIK ALI
(F/O. AYSHA SIDDIKA CLASS-II) S/O. HASEN ALI VILL. KALAPAKANI PT-II
(BAILAR CHAR) P.O. PATAMARI DIST. DHUBRI ASSAM PIN-783324.

4: KURAN ALI
(F/O. KOHINUR KHATUN CLASSIV) S/O. NAYAB ALI VILL. KALAPAKANI
PT-II (BAILAR CHAR) P.O. PATAMARI DIST. DHUBRI ASSAM PIN-783324.

5: MOSTOFA SK
(F/O. EUSUF ALI CLASS-V) S/O. ALTAP ALI VILL. KALAPAKANI PT-II
(BAILAR CHAR) P.O. PATAMARI DIST. DHUBRI ASSAM PIN-783324.

6: AHMEN ALI
(F/O. AYMONA KHATUN CLASS-IV) S/O. LT. RAJAB ALI VILL. KALAPAKANI
PT-II (BAILAR CHAR) P.O. PATAMARI DIST. DHUBRI ASSAM PIN-783324.

7: SAIJUDIN SK
(F/O. NASIR UDDIN CLASS-I) S/O. SIDDIK ALI VILL. KALAPAKANI PT-II
(BAILAR CHAR) P.O. PATAMARI DIST. DHUBRI ASSAM PIN-783324

VERSUS

1: THE STATE OF ASSAM AND 4 ORS TO BE REP. BY THE COMM. AND
SECY. TO THE GOVT. OF ASSAM, ELEMENTARY EDUCATION DEPTT.,

DISPUR, GUWAHATI-06.

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

3:THE DEPUTY COMMISSIONER
DIST. DHUBRI PIN-783301.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI ASSAM PIN-783301.

5:FAZAR ALI
S/O. MUZAHAR MUNSHI VILL. KALAPAKANI PT-II
P.O. PATAMARI DIST. DHUBRI ASSAM PIN-783324

Advocate for the Petitioner : MR. S K DAS

Advocate for the Respondent : GA, ASSAM

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

ORDER

Date : 10-01-2024

Heard Mr. S.K. Das, learned counsel for the petitioners. Also heard Mr. B. Talukdar, learned standing counsel, Education (Elementary) Department, representing the respondent Nos.1, 2 & 4 and Mr. R. Islam, learned counsel, representing the respondent No.5.

The petitioners, who are the members of the School Managing Committee and guardians of children studying in 349 No. Dakhin Bailarchar L.P. School, have, by way of the present proceeding, raised a grievance with regard to the proposed shifting of the School from its present site to Kalapakani Part-II area in terms of an enquiry report purportedly made by the respondents. The petitioners submits that the School was shifted to the present place after the earlier site of the School was eroded by the river and the present site is about 400 Mtr. from its earlier site.

The reports available with regard to the issue of shifting of the present School to Kalapakani Part-II area is contradictory.

Accordingly, in view of the disputed questions arising in the present proceeding, it would not be possible on the part of this Court to come to a definite conclusion as to the site wherein the School should function. Moreover, the School at the site wherein a provincialised School is to function is to be based on the decision of the authorities. However, such decision must be based on cogent and relevant materials.

In view of the above position, this writ petition stands disposed of directing the parties to prefer appeal(s) before the Secretary to the Government of Assam, Department of School Education and therein raise their respective claims in support of their contentions as to whether the School is to be situated. The Secretary to the Government of Assam, Department of School Education, on receipt of such appeal(s) either from the petitioners or from the respondent No.5, shall proceed with the matter and upon hearing the parties involved in the proceeding and also conducting field verification through a competent Officer of the Department or by involving the Office of the Deputy Commissioner, Dhubri come to a conclusion with regard to the contentions raised by the petitioners and thereafter decide as to the site wherein the said School is to continue to function. The said decision shall be arrived at within a period of 3(three) months from the date of receipt of a certified copy of this order along with the appeal(s) that may be filed by the petitioners or by the respondent No.5. For facilitating the above exercise, the petitioners and the respondent No.5 shall submit their respective contentions in form of appeal(s) before the Secretary to the Government of Assam, Department of School Education, who shall thereafter carry out the exercise as required by him,

hereinabove.

Till such time the said exercise is completed and a decision thereon is communicated to the parties in the form of a speaking order, the School shall continue to operate from its present site, i.e. at Bailarchar area, and shall not be shifted to Kalapakani Part-II area. The said order shall remain in force till the decision in the matter is communicated to the parties by the Secretary to the Government of Assam, Department of School Education on arriving at a conclusion after the enquiry with regard to the rival contentions of the parties herein.

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

JUDGE

Comparing Assistant