

GAHC010177462024



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

Case No. : WP(C)/4434/2024

ABDUL SALAM
S/O- IMMAT ALI, VILL- KAPURPURA, P.O. HOLLOW KANDA, P.S.
BHURAGAON, DIST.- MORIGAON, ASSAM, PIN- 782127

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT.
OF ASSAM, SCHOOL EDUCATION (ELEMENTARY), ASSAM, DISPUR, GHY-
06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
ASSAM- 781019

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
MORIGAON
P.O. MORIGAON
DIST.- MORIGAON
ASSAM
PIN- 782105

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
LAHARIGHAT CENTRE
DIST.- MORIGAON
ASSAM
PIN- 782127

5:THE CLUSTER RESOURCE CENTRE COORDINATOR (CRCC)
TULSHIBORI

LAHARIGHAT
DIST- MORIGAON
ASSAM
PIN- 782127

6:THE HEADMASTER
KAPURPOORA L.P. SCHOOL
KAPURAPURA
P.O. HOLLOWKANDA
P.S. BHURAGAON
DIST.- MORIGAON
ASSAM
PIN- 78212

Advocate for the Petitioner : MR. J AHMED, MS A HUSSAIN,R BEGUM,A M AHMED,H G DAISY

Advocate for the Respondent : SC, ELEM. EDU,

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR
ORDER

06.09.2024

Heard Mr. J. Ahmed, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned Standing Counsel, Elementary Education Department, Government of Assam, for respondent Nos.1, 2, 3 and 4 and Mr. P. Nayak, learned Standing Counsel, SSA, for respondent No.5.

2. The petitioner in the present writ petition claims that he was elected as the SMC President of Kapurpura LP School, Morigaon in the election held on 10.11.2023. To that effect, the Presiding Officer/Headmaster, Kapurpura LP School, the Cluster Resource Center Coordinator, Morigaon and the Nodal Officer issued a certificate to the petitioner on his election as SMC President of

Kapurpura LP School. The constitution of the SMC of the said School was also approved by District Elementary Education Officer by a Communication, dated 29.11.2023.

3. However, two persons, namely, Dilder Hussain and Mainul Hoque, filed a writ petition before this Court, which was numbered as WP(C) No.67/2024 challenging the constitution of the SMC of the said School on the ground that it was not constituted in accordance with the provisions of the rules holding the field and the same was done by the Headmaster by incorporating the persons close to him in clear violation of the provisions of the *Assam Right of Children to Free and Compulsory Education, Rules, 2011*.

3. This Court, accordingly, disposed of the said WP(C) No.67/2024 by order, dated 10.01.2024, with the following directions:-

“4. Accordingly, the petitioner is hereby directed to approach the Director of Elementary Education, Assam within 15 days from today by way of an appeal and therein take all grounds available to him with regard to the challenge made by him to the constitution of the school managing committee for Kapurpura L.P. School.

5. The Director of Elementary Education, Assam on receipt of the said appeal from the petitioner shall cause an enquiry into the allegation leveled by him therein and after hearing the petitioner as well as the school authorities and also the person who has now been appointed as the President of the School Managing Committee of the school shall pass an order with regard to the validity of the School Managing Committee as constituted vide the communication dated 29.11.2023. The said exercise shall be completed within a period of two months from the date of receipt of the appeal along with the certified copy of this order.

6. It is stated that in the event the appeal is filed within a period of 15 days as directed hereinabove by the petitioner, the Director of Elementary Education,

Assam shall direct the District Elementary Education Officer to monitor the activities of the said school managing committee, Kapurpura L.P. School and the school managing committee of Kapurpura L.P. School is directed that till disposal of the said appeal they shall not take any decision with regard to any aspect of the school without having the same approved by the District Elementary Education Officer, Morigaon.”

- 4.** Thereafter, the District Elementary Education Officer, Morigaon, by a Communication, dated 13.08.2024, addressed to the Block Elementary Education Officer, Laharighat, Cluster Resource Center Coordinator (CRCC), Tulshibori, Headmaster, Kapurpura LP School and the two writ petitioners of WP(C) No.67/2024 were directed to attend a hearing on 17.08.2024 in the office chamber of the District Elementary Education Officer, Assam.
- 5.** The petitioner is aggrieved inasmuch as despite clear directions given by this Court in the order, dated 10.01.2024, passed in WP(C) No.67/2024, no notice was given to the petitioner to attend the said hearing.
- 6.** Mr. Kaushik, learned Standing Counsel, Elementary Education Department, submits that the writ petition can be disposed of directing the Director of Elementary Education, Assam to give the petitioner an opportunity of hearing before any order is passed.
- 7.** Accordingly, this writ petition is disposed of directing the Director of Elementary Education, Assam to call the petitioner for a hearing before any order is passed in terms of the directions contained in the order, dated 10.01.2024, passed in WP(C) No.67/2024.
- 8.** It is made clear that if the Director of Elementary Education, Assam, has already taken a decision in this regard without hearing the petitioner, the Director of Elementary Education, Assam/respondent No.2 shall revisit such

decision after giving the petitioner an opportunity of hearing.

9. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant