

GAHC010195782023



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

Case No. : WP(C)/5262/2023

THE PRESIDENT, THE SCHOOL MANAGING COMMITTEE OF MILAN MEM
KASIMPUR SCHOOL AND ANR
VILLAGE- KASIMPUR, P.O.- KENDUKUCHI, IN THE DISTRICT OF NALBARI,
REPRESENTED BY MD KALAM ALI, 51 YEARS, SON OF LATE
NASIMUDDIN ALI, VILLAGE- KASHIMPUR, P.O.- KEDUKUCHI, IN THE
DISTRICT OF NALBARI, ASSAM, PIN- 781314.

2: THE SECRETARY
THE SCHOOL MANAGING COMMITTEE OF MILAN MEM
KASHIMPUR SCHOOL
VILLAGE- KASHIMPUR
P.O.- KENDUKUCHI
IN THE DISTRICT OF NALBARI
REPRESENTED BY MD. EUNUS ALI
AGED 46 YEARS
SON OF LATE ABBAS ALI
VILLAGE- KASHIMPUR
P.O.- KENDUKUCHI
IN THE DISTRICT OF NALBARI
ASSAM
PIN- 781314

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO TE
GOVERNMENT OF ASSAM,
ELEMENTARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE PRINCIPAL SECRETARY
GOVERNMENT OF ASSAM
SECONDARY EDUCATION DEPARTMENT
DISPUR

GUWAHATI- 781006.

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

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

5:THE INSPECTOR OF SCHOOLS
N.D.C.
NALBARI
DISTRICT- NALBARI
PIN- 781335
ASSAM.

6:DISTRICT ELEMENTARY OFFICER
NALBARI
DISTRICT- NALBARI
PIN- 781335
ASSAM

Advocate for the Petitioner : MR. R C SAIKIA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 31.05.2024

- 1.** Heard Mr. R.C. Saikia, learned counsel for the petitioners.
- 2.** Also heard Mr. B. Kaushik, learned standing counsel, Elementary Education Department, for respondent Nos. 1, 4 & 6 and Ms. P. Das, learned standing counsel, Secondary Education Department, for respondent Nos. 2, 3 & 5.

3. The petitioners, in the present writ petition, are the President and the Secretary of the School Managing Committee of Milan MEM, Kashimpur School in the district of Nalbari. They are aggrieved with the order dated 24.07.2023 issued by the Director of Secondary Education, Assam, by which, their school, i.e., Milan MEM, Kashimpur School has been merged/amalgamated with the Anchalik Milan Secondary School, Kashimpur.

4. It is the case of the petitioners that Clause-11 of the Office Memorandum dated 03.08.2021, issued by the Secondary Education Department, Government of Assam provides that to optimize the use of services of the teachers of a two-class High School, one nearby ME School having poor enrolment i.e., less than 35 students in each class may be merged with the High School. However, the school of the petitioners has an enrolment of more than 224 students and, therefore, the amalgamation of the petitioners' school with the Anchalik Milan Secondary School, Kashimpur is not in terms of Clause-11 of the O.M. dated 03.08.2021.

5. The petitioners have also made a representation before the District Elementary Education Officer, Nalbari, on 09.08.2023 for cancellation of the order of amalgamation.

6. Clause-19 of the O.M. dated 03.08.2021 provides that the Director concerned will issue necessary order for amalgamation and for any disputes arising out of the order, the aggrieved institutions/public may appeal before the Government in the Secondary Education or Elementary Education Department, as the case may be.

- 7.** A perusal of the representation dated 09.08.2023 would indicate that the petitioners have approached the wrong forum.
- 8.** Accordingly, after hearing the learned counsel for the parties, this writ petition is disposed of directing the petitioners to file an appeal, in terms of Clause-19 of the O.M. dated 03.08.2021, before the Government in the Secondary Education or Elementary Education Department, as the case may be, within a period of 3 weeks from today. Thereafter, on receipt of the appeal, the Government, in the Secondary Education or Elementary Education Department, shall dispose of the appeal in accordance with law by a speaking order within a period of 6 weeks from the date of receipt of the appeal.
- 9.** Interim order of status-quo passed on 13.09.2023, shall remain in force till the appeal is disposed of by the Government.
- 10.** With the above observations and directions, the writ petition is disposed of.

JUDGE

Comparing Assistant