

GAHC010200232017



2024:GAU-AS:3613

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

Case No. : WP(C)/4982/2017

AKKABAR ALI
MEMBER OF BADLICHAR EID GAH COMMITTEE, JAMME MASJID
COMMITTEE CHUPAHI MUKTAB COMMITTEE S/O- LATE SYED ALI, R/O-
VILL- BADLICHAR, P.O- DALGAON, P.S- SHYAMPUR, DIST- DARRANG,
ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
EDUCATIONELEMENTARY DEPARTMENT, DISPUR, GUWAHATI- 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
GUWAHATI- 19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DARRANG
MONGOLDOI
ASSAM

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
DALGAON
DARRANG
ASSAM

5:THE DEPUTY COMMISSIONER
DARRANG

MANGOLDOI
ASSAM

6:THE CIRCLE OFFICER OF DALGAON REVENUE CIRCLE
DALGAON
DARRANG
ASSAM

7:MD. OSMAN GONI
HEAD MASTER CUM SECRETARY OF BADLICHAR L P SCHOOL
S/O- MD. AZIMUDDIN AHMED
R/O- VILL- BADLICHAR
P.O- DALGAON
P.S- SHYAMPUR
DIST- DARRANG
ASSAM
PIN

Advocate for the Petitioner : MS.M KHATUN, MS.A MAHANTA,MS.K LAHKAR,MR.A ALI

Advocate for the Respondent : MR.A AHMEDR-7, MR.A MATIN(R-7),GA, ASSAM,SC,
ELEMENTARY EDUCATION,MS. A AHMED(R-7),MS.S RAHANA(R-7)

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 17-03-2025

Heard Mr. A Ali, learned counsel for the petitioner. Also heard Mr. B Kaushik, learned counsel for the respondent Nos. 1 to 4, Mr. P Saikia, learned counsel for the respondent Nos. 5 & 6 as well as Mr. A Ahmed, learned counsel for the respondent No. 7.

2. The petitioner, who claims to be a member of the Managing Committee of the Badlichar Eid Gah Maida (Field) under Dalgaon Police Station, Darrang

District has raised his grievance that the new building of the Badlicher L.P. School is being built in the middle portion of the Eid Gah Maida (Field), though the said area is the common area of Maszid, Maktab Madrassa, Badlicher L.P. School and Badlicher M.E. School.

3. The petitioner's counsel submits that as the open field area is the common property of all the four institutions mentioned above, the Badlicher L.P. School cannot construct a new building in the middle of the open field. He submits that there is a vacant plot of land in the east side of the open field in which the new Badlicher L.P. School building can be constructed.

4. Mr. A Ali, learned counsel for the petitioner submits that even though the petitioner has submitted a representation dated 05.08.2017 to the District Elementary Education Officer, with regard to the petitioner's prayer to stop the construction of the Badlicher L.P. School new building, no decision has been taken by the District Elementary Education Officer till date. He submits that the petitioner may be given the liberty to file a separate representation to the District Commissioner, Darrang with regard to the grievance of the petitioner.

5. The learned counsels for the respondents, on the other hand, submit that the vacant plot of land in question wherein the Badlicher L.P. School new building is being constructed has been allotted to the Badlicher L.P. School. As such, unless the petitioner is able to show that he has been allotted the area in which the Badlicher L.P. School new building is being constructed, the writ petition would have to be dismissed. They also submit that as the matter pertains to disputed questions of facts, the office of the District Commissioner, Darrang would be the best authority to decide as to whether the land has been

allotted to the Badlichar L.P. School or not and as to whether a new building can be constructed. They also submit that do not have no objection with the petitioner's counsel prayer to submit a fresh representation, which can be decided by the concerned District Commissioner.

6. I have heard the learned counsels for the parties.

7. The question as to whether the new building of the Badlichar L.P. School can be constructed in the middle of the field and whether the same has been allotted to the Badlichar L.P. School is a disputed question of fact, which would have to be decided by the competent authority. In this case, the competent authority would be the District Commissioner, Darrang.

8. Accordingly, as there is an efficacious alternative remedy available, this Court is of the view that the petitioner would have to approach the said authority with his grievance. If he is still aggrieved by the decision to be made by the District Commissioner, the petitioner can always avail off a remedy under the Civil Courts. Accordingly, the petitioner is given the liberty to submit a representation to the District Commissioner, Darrang in relation to his grievance within a period of 2 (two) weeks from today. In the event, the petitioner submits a representation to the District Commissioner, Darrang, the same should be decided within a further period of 6 (six) weeks, from the date of receipt of the representation and a certified copy of this order. The District Commissioner, Darrang should also give an opportunity of hearing to the respondents, prior to taking a final decision on the petitioner's representation.

9. The writ petition is disposed of accordingly.

10. The status quo order passed on 11.01.2021 shall remain in operation for a period of 2 (two) weeks from today.

JUDGE

Comparing Assistant