

GAHC010205192024



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

Case No. : WP(C)/5112/2024

NIPEN BORO
S/O- LATE DHANESWAR BORO,
R/O- VILL- CHUNGARBARI,
P.O.- ADABARI, P.S.- MUKALMUA,
DIST- NALBARI, ASSAM, PIN- 781126.

VERSUS

THE STATE OF ASSAM AND 4 ORS
THROUGH THE SECRETARY TO THE GOVT. OF ASSAM,
SCHOOL EDUCATION DEPARTMENT, DISPUR,
GUWAHATI-06.

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

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

4:THE INSPECTOR OF SCHOOLS
NALBARI DISTRICT CIRCLE
NALBARI
PIN- 781335.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NALBARI
ASSAM PIN- 781335

Advocate for the Petitioner : MR. I H SAIKIA, MR K KASHYAB,MR. M R CHOUDHURY,MR.
K KALITA,MR. B BORAH

Advocate for the Respondent : SC, SEC. EDU., SC, ELEM. EDU

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

01-10-2024

Heard Mr. I. H. Saikia, learned counsel for the petitioner and Mr. U. Sarma, learned Standing Counsel, Department of School (Secondary) Education for the respondent Nos. 1, 2 and 4. Also heard Ms. S. Chutia, learned Standing Counsel, Department of School (Elementary) Education for the respondent Nos. 3 and 5.

2) The daughter of the petitioner is studying in G. K. Chungabari L. P. School under Barkhetri Education Block of Nalbari District. Said G. K. Chungabari L. P. School was amalgamated with G. K. Chungabari M. E. School under the same Education Block of District Nalbari in terms of the order of the State Government dated 12.03.2018, since both the Schools are in the same campus.

3) After such amalgamation of G. K. Chungabari L. P. School with G. K. Chungabari M. E. School on the basis of the decision of the State Government dated 03.08.2021 and the order of the Director of Secondary Education, Assam dated 24.07.2023 said G. K. Chungabari M. E. School was amalgamated with G. K. Chungabari High School, at Barkhetri Education Block, District Nalbari under the Scheme of 'Siksha Khetra', where both the Schools are in the same campus.

4) Further, the Inspector of Schools, Nalbari by the impugned order under No.IS/NDC/Nal/Amalgamation/Merger/ 1/2022/3847 dated 13.03.2024 (Annexure-3 to this writ petition) amalgamated said G. K. Chungabari High School with Galdighala High School under Barkhetri Education Block of Nalbari District observing that said Galdighala High School shall be the Base School.

5) It is submitted by the petitioner that said Galdighala High School is at a distance of 2.5 kms away from the original location of said G. K. Chungabari High School from, where the daughter of the petitioner is presently studying and that, if such amalgamation of G. K. Chungabari High School with Galdighala High School in terms of the order of the Inspector of Schools, Nalbari dated 13.03.2024 is allowed, the minor children studying in Lower Primary Sections and Upper Primary Sections of G. K. Chungabari High School will face difficulties in attending their classes, as the entire area of Galdighala High School is situated in flood prone area.

6) Mr. Saikia, learned counsel for the petitioner stated that minor children including his daughter of G. K. Chungabari L. P. School and G. K. Chungabari M. E. School are attending their classes at amalgamated G. K. Chungabari High School at village – Chungabari.

7) Hence, this writ petition by the petitioner for setting and quashing the impugned amalgamation order dated 13.03.2024 of the I.S. Nalbari amalgamating G. K. Chungabari High School with Galdighala High School and for a direction to the respondents to take immediate steps to restore and retain Upper Primary and Lower Primary Sections of G. K. Chungabari High School in its original location at Chungabari village under Barkhetri Education Block of Nalbari District.

8) The State Government by its Office Memorandum No.ASE.481/2016/164 dated 03.08.2021 brought into force a Scheme, namely, "Siksha Khetra" for amalgamation and merger of different Schools that was notified in the Assam Gazette on 25.08.2021 (Annexure-4 to this writ petition).

9) The said Scheme of Siksha Khetra dated 03.08.2021 specifies various

provisions for amalgamation of provincialised Lower Primary Schools with another provincialised Lower Primary Schools and/or with provincialised Upper Primary School and/or High Schools and Higher Secondary Schools. Similarly, amalgamation of such provincialised Upper Primary Schools with High and/or Higher Secondary Schools, Stand-alone High Schools and Higher Secondary Schools; the conditions of service of teaching and non-teaching staff of such amalgamated Schools The said Scheme of Siksha Khetra also provides that there shall be one committee at the Block Level and another at the District Level to find out the Schools which are eligible for amalgamation/merger in view of the provisions of Right to Education Act and norms laid down by the Sarba Siksha Abhijan.

10) Clause 19 of said Scheme of Siksha Khetra dated 03.08.2021 provides that – *For any disputes arising out of the order, the aggrieved Institutions/public may appeal before the Government in the Secondary or Elementary Department, as the case may be.*

11) Considering the above and after hearing the learned counsels for the parties, this writ petition is disposed of at the motion stage itself directing the petitioner to submit his appeal along with a certified copy of this order, before the Secretary to the Government of Assam in the Department of School Education at the earliest on or before **15.10.2024** stating his grievances pertaining to the order under No.IS/NDC/Nal/Amalgamation/Merger/1/2022/3847 dated 13.03.2024 issued by the Inspector of Schools, Nalbari obtaining necessary acknowledgement from the said authority in that regard.

12) In the event of filing such appeal by the petitioner, before the Secretary to the Government of Assam in the Department of School Education in terms of the provision of Clause 19 of said Scheme of Siksha Khetra dated 25.08.2021

within the time so specified, the said authority shall dispose of such appeal of the petitioner within a period of 60 days (two months) by a Speaking Order intimating the petitioner about the outcome of his such appeal.

13) While disposing of such appeal of the petitioner the Secretary to the Government of Assam in the Department of School Education may obtain necessary report from the Block Level Committee as well as District Level Committee.

14) With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant