

GAHC010216422022



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

Case No. : WP(C)/6818/2022

ABDUR RAHIM
S/O SOBAN ALI, R/O VILL. HABI DONGRA P.O. HABI DONGRA P.S.
BAGHBOR DIST. BARPETA ASSAM, PIN-781306

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
EDUCATION SECONDARY DISPUR ASSAM GUWAHATI-6

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

3:THE DEPUTY COMMISSIONER BARPETA ASSAM PIN-781301

4:THE INSPECTOR OF SCHOOLS BARPETA DIST. CIRCLE
DIST. BARPETA ASSAM PIN-781301

5:THE PRINCIPAL BAMUNDONGRA HS SCHOOL
VILL. AND P.O. BAMUNDONGRA DIST. BARPETA ASSAM PIN-781308

6:AMINUL HOQUE S/O SAH SULTAN
R/O VILL. BAMUNDONGRA P.O. BAMUNDONGRA
P.S. BAGHBOR DIST. BARPETA ASSAM PIN-78130

Advocate for the Petitioner : MR A A DEWAN

Advocate for the Respondent : GA, ASSAM

Linked Case : I.A.(Civil)/226/2023

AMINUL HOQUES/O SAH SULTAN R/O VILL. BAMUNDONGRA P.O.
BAMUNDONGRA P.S. BAGHBOR DIST. BARPETA ASSAM PIN-781308.

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Advocate for : Mr M U Ahmed

Advocate for : GA ASSAM appearing for ABDUR RAHIM AND 5 ORS.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 02.04.2024

Heard Mr. A. A. Dewan, learned counsel for the petitioner. Also heard Mr. U. Sarma, learned standing counsel, Secondary Education Department, appearing on behalf of Respondents No. 1, 2 & 4; Mr. B. Deuri, learned Junior Government Advocate, appearing on behalf of Respondent No. 3; and Mr. M. U. Ahmed, learned counsel, appearing on behalf of Respondent No. 6. However, none appears on behalf of Respondent No. 5.

2. As consented to by the learned counsels appearing for the parties; this writ petition is taken-up for final consideration and disposal.

3. The petitioner by way of instituting the present writ petition, has

presented a challenge to an order, dated 10.10.2022, issued by the Inspector of Schools, Barpeta District Circle, Barpeta, appointing the Respondent No. 6, herein, as the President of the School Management & Development Committee(SMDC) of Bamundongra Higher Secondary School.

4. The petitioner in the present proceedings, has contended that on expiry of the term of the School Management & Development Committee(SMDC) of the school, in question, the jurisdictional Inspector of Schools had required the school authorities to forward the names of the persons who were to be so nominated, by calling a General Meeting of the Guardians and Parents of the students studying in the school, for the post of President and Vice-President of the School Management & Development Committee (SMDC) of the said school in accordance with the Notifications, dated 24.06.2016, and 27.10.2021. Accordingly, it is contended by the petitioner that the meeting was so called and the names of the petitioner and the Respondent No. 6 were forwarded against the post of President of the School Management & Development Committee (SMDC) of the said school. It is further contended by the petitioner that his name figured at Serial No. 1 of the panel list so prepared, while the name of the Respondent No. 6 figured at Serial No. 2 therein. The said list was forwarded to the jurisdictional Inspector of Schools, who, thereafter, forwarded the same to the Deputy Commissioner, Barpeta, for selection of the President of the School Management & Development Committee(SMDC) of the school in question. It is also the contention of the petitioner that vide the impugned order, dated 10.10.2022; the jurisdictional Inspector of Schools in terms of the selection made by the Deputy Commissioner, Barpeta, and with the approval of the Guardian Minister of the District, nominated the Respondent No. 6, herein, as

President and one another as Vice-President of the School Management & Development Committee(SMDC) of the said school.

5. The petitioner, in the present proceedings, has presented a challenge to the nomination as made vide the order, dated 10.10.2022, by the jurisdictional Inspector of Schools with regard to the post of President of the School Management & Development Committee(SMDC) of the school i.e. with regard to the nomination so made in favour of Respondent No. 6, herein.

6. This Court, while issuing notice in the matter, vide order, dated 27.10.2022, noticing the contentions as made by the petitioner in the matter, was pleased to suspend the operation of the order, dated 10.10.2022. The Respondent No. 6, herein, being aggrieved; has instituted an interlocutory application i.e. IA(c)226/2023, praying for vacation/modification of the said order, dated 27.10.2022. However, this Court, as agreed to by the learned counsels appearing for the parties; has taken-up this writ petition for final consideration.

7. Mr. Dewan, learned counsel for the petitioner, has submitted that the name of the petitioner in terms of the provisions of the Notification, dated 24.06.2016, having been empanelled in the panel list prepared by the school authorities at Serial No. 1; the said position could not have been altered by the respondent authorities, more particularly, the Deputy Commissioner, Barpeta, and by ignoring the said placement, proceed to nominate the name of the Respondent No. 6 whose name was placed at Serial No. 2, for the post of President of School Management and Development Committee (SMDC) of the said school.

8. It is the stand of Mr. Dewan, learned counsel for the petitioner that in the absence of any reasons being assigned by the respondent authorities in nominating the person placed at Serial No. 2 for the post of President of the School Management & Development Committee(SMDC) of the said school, ignoring the case of the petitioner herein, who was placed at Serial No. 1, such nomination is not sustainable and accordingly, requires this Court to interfere with the order, dated 10.10.2022, to the extent it has the effect of nominating the Respondent No. 6, herein, against the post of President of the school, in question.

9. Mr. Dewan, learned counsel for the petitioner, on a query made by this Court, has submitted that the challenge made to the nomination in respect of the Respondent No. 6 as the President of the School Management & Development Committee(SMDC) of the said school, is only on the ground that the name of the Respondent No. 6 for nomination as the President of the school in the panel list so prepared by the school authorities in the meeting convened for the purpose of the guardians/parents of the students studying in the school, was placed at Serial No. 2, while the name of the petitioner figured at Serial No. 1 in the said list.

10. Mr. Sarma, learned standing counsel, Elementary Education Department, relying on a written instruction, as received by him in the matter from the respondent authorities, has submitted that the panel list as prepared by the school authorities in terms of the Notification, dated 24.06.2016, is not so prepared basing on any selection so made for the purpose but is made of persons who have been proposed for nomination against the post of

President/Vice-President of the School Management & Development Committee(SMDC) of the school, in question, by the parents/guardians of the students participating in the meeting convened for the purpose.

11. Mr. Sarma, learned standing counsel, Elementary Education Department, has further submitted that the placement in the panel as prepared for the purpose, cannot be denoted to be one so prepared after a process of selection comparing the merits of the candidates so placed in the said panel list. Accordingly, Mr. Sarma, has submitted that in the absence of any *mala fide* being alleged by the petitioner against the authorities competent to nominate persons as President of a School Management & Development Committee (SMDC) of the school in question; no interference is called for from this Court with regard to the nomination as made in respect of Respondent No. 6 as the President of the School Management & Development Committee(SMDC) of the school vide order, dated 10.10.2022.

12. I have heard the learned counsels for the parties as well as perused the materials available on record.

13. It is a settled position of law that this Court in exercise of its powers under Article 226 of the Constitution of India, is not required to go into the merits of the decision and only the decision making process can be a matter of scrutiny and in the instant case; it is seen that after the nominations were made and a panel prepared by the school authorities; the same was considered by the jurisdictional Deputy Commissioner, who is now empowered to make the

selection with regard to the posts of President and Vice-President of a School Management & Development Committee(SMDC), in terms of the Notification, dated 27.10.2021, and thereafter, on the selection so made by the Deputy Commissioner, having been approved by the Guardian Minister of the District, the Inspector of Schools had passed the consequential order, dated 10.10.2022, nominating the Respondent No. 6, herein, as the President of the School Management & Development Committee(SMDC) of the said school.

14. A perusal of the materials as brought on record by the petitioner in the matter, would reveal that no allegation of mala fide has been levelled against the Deputy Commissioner and/or the Guardian Minister of the District, with regard to the actions taken by them in nominating the Respondent No. 6 as the President of the School Management & Development Committee(SMDC) of the school, in question.

15. The Notification, dated 24.06.2016, has been found to have been complied with in the matter and accordingly, in terms of the modification of the same vide the Notification, dated 27.10.2021, it is found that the selection was made in the matter by the Deputy Commissioner and the nomination of the respondent No. 6 was so made after the approval of the Guardian Minister, was received to the selection of the Respondent No. 6 as the President of the School Management & Development Committee(SMDC) of the school, in question.

16. The only contention raised by the petitioner in the present proceedings, is that his name having been placed at Serial No. 1 of the panel as prepared by

the school authorities for the post of President of the School Management & Development Committee(SMDC) of the said school; he could not have been replaced by the Respondent No. 6, herein, in the matter of final nomination for the post of President of the School Management & Development Committee(SMDC) of the school.

17. A perusal of the Notification, dated 24.06.2016, as well as the Notification, dated 27.10.2021, does not demonstrate that the panel so prepared by the school authorities are to be so prepared after a process of a selection. The said panel is strictly prepared incorporating the names of the persons who fulfill the criteria as mandated in the Notification, dated 24.06.2016, to hold the post of President of the School Management & Development Committee(SMDC) of the school, in question and proposed for the same by the school authorities. The petitioner has not brought on record any material to show that the Respondent No. 6, herein, was in any manner disqualified to hold the post of President of the School Management & Development Committee(SMDC) of the school in question.

18. This Court, on examination, has found that the Respondent No. 6, herein, satisfies the criteria as mandated in the Notification, dated 24.06.2016, for being nominated as the President of the School Management & Development Committee(SMDC) of the said school and accordingly, there exists no illegality and/or irregularity in the nomination made of the name of the respondent No. 6, in this connection.

19. The petitioner, herein, has not challenged the provisions of the Notifications, dated 24.06.2016 and 27.10.2021, and there is not even a passing reference with regard to any violation of the provisions to the said Notification in the entire writ petition. Accordingly, this Court concludes that the decision making process in the matter leading to the issuance of the order, dated 10.10.2021, by the jurisdictional Inspector of Schools nominating the Respondent No. 6 as the President of the School Management & Development Committee(SMDC) of the school, in question; to be just, reasonable and in accordance with the Notification, dated 24.06.2016, *read with* the Notification, dated 27.10.2021.

20. In view of the conclusions reached hereinabove; this Court finds that the nomination as effected in the case of Respondent No. 6 was so done strictly in accordance with the provisions of the Notification, dated 24.06.2016, *read with* the Notification, dated 27.10.2021, and accordingly, the same does not call for any interference from this Court.

21. In the above view of the matter; this writ petition is found to be devoid of any merit and the same accordingly stands dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant