

GAHC010217962024



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

Case No. : WA/369/2024

BADRUL HAQUE AND ORS
S/O LT. ABDUR RAHMAN R/O VILL- RANIRGRAM, P.O. JALALNAGAR T.E.
P.S. AND DIST. KARIMGANJ

2: ABDUR ROUF S/OLATE TAFAZZUL ALI
R/O VILL AND P.O. BRAHMANSASHAN
P.S. NILAMBAZAR DIST. KARIMGANJ

3: NISAR AHMED S/O LATE SAJAFAR ALI
VILL- NALUA P.O. JALALNAGAR TE
P.S. AND DIST. KARIMGANJ

VERSUS

THE STATE OF ASSAM AND ORS
REP. BY THE COMMISSIONER AND SECRETARY (SECONDARY EDUCATION
DEPARTMENT, DISPUR, GUWAHATI-06

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

3:THE INSPECTOR OF SCHOOLS KDC KARIMGANJ
DIST. KARIMGANJ

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KARIMGANJ DIST. KARIMGANJ PIN-788710

5:BLOCK ELEMENTARY EDUCATION OFFICER KARIMGANJ
DIST. KARIMGANJ

Advocate for the Petitioner : MR H R A CHOUDHURY, MS S DAS,MR F U BARBHUIYA,MR.
M A CHOUDHURY

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

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 04.11.2024
(Vijay Bishnoi, CJ)

Heard Mr. H. R. A. Choudhury, learned senior counsel, assisted by Mr. F. U. Barbhuiya, learned counsel, appearing on behalf of the appellants. Also heard Mr. Rajesh Mazumdar, learned standing counsel, Secondary Education Department, Assam, appearing on behalf of all the respondents.

2. This writ appeal is preferred by the appellants being aggrieved with the order, dated 09.09.2024, passed by the learned Single Judge in WP(c)5219/2022, whereby, the learned Single Judge has disposed of the said writ petition filed on behalf of the appellants while granting them liberty to approach the appellate authority for redressal of their grievances.

3. The brief facts of the case are that under the Siksha Khetra Scheme, which provide for amalgamation and merger of different provincialized Lower Primary, Upper Primary, High and Higher Secondary Schools with a base school of the State, the Secondary Education Department in the Government of Assam, has issued a Notification, dated 29.03.2022, amalgamating the Krishnanagar Ranigram M.V. School of District Karimganj with the base school i.e. Ahmadia High School of District Karimganj. After amalgamation, the school was to be named as Ahmadia High School.

4. Later on, by another order issued by the Director, Secondary Education Department, Assam, dated 01.06.2022; the earlier order, dated 29.03.2022,

was cancelled and a fresh order for amalgamation of Krishnanagar Ranigram M.V. School of District Karimganj with the Ahmadia High School of District Karimganj was passed wherein it is mentioned that after amalgamation/merger; the name of the school shall be Krishnanagar Ranigram High School.

5. The appellants have claimed before the writ Court that the aforesaid amalgamation, vide the order, dated 01.06.2022, naming the school as Krishnanagar Ranigram High School is in violation of the Office Memorandum, dated 03.08.2021, with regard to the Siksha Khetra Scheme for amalgamation and merger of different schools.

6. It is also contended by the appellants that as a matter of fact; the Ahmadia High School was the highest level school in the campus and the Krishnanagar Ranigram M.V. School is not in comparison to the level of Ahmadia High School and therefore, the action of the respondents in naming the school as Krishnanagar Ranigram High School, is illegal.

7. The learned Single Judge after taking into consideration, the arguments advanced on behalf of the parties, have recorded a finding that the appellants have no *locus standi* to challenge the order, dated 01.06.2022, renaming the school upon amalgamation as Krishnanagar Ranigram High School because neither, their children are studying in the said school, nor, they are the members of the School Managing Committee of that school.

8. The learned Single Judge, however, has taken into consideration the Siksha Khetra Scheme and has observed that against the decision of the

Director, Secondary Education Department, renaming the amalgamated school as Krishnanagar Ranigram High School; the appellants can file an appeal, either, to the State Government, or, to the Education Department as per the Clause 19 of the Siksha Khetra Scheme.

9. Mr. Choudhury, learned senior counsel appearing for the appellants, has submitted that the learned Single Judge has illegally questioned the *locus standi* of the appellants, herein, while observing that neither, their children are studying in Ahmadia High School, nor, they are the members of the School Managing Committee of that school.

10. Mr. Choudhury, learned senior counsel, has further submitted that as a matter of fact, in paragraph No. 8 of the writ petition, referred to above; the appellants have specifically pleaded that they are the members of the School Managing Committee of the school, in question, and the aforesaid assertion of the appellants have not been controverted by the State and other respondents and in such circumstances; the said finding of the learned Single Judge is liable to be set aside.

11. Mr. Choudhury, learned senior counsel, has also submitted that under Clause 19 of the Siksha Khetra Scheme, an appeal can be preferred against an order of amalgamation and not against the naming of the school, upon amalgamation; therefore, the learned Single Judge was also not right in relegating the appellants to avail the alternate remedy of filing an appeal under Clause 19 of the Siksha Khetra Scheme.

12. Mr. Choudhury, learned senior counsel, has, therefore, submitted that

the impugned order, dated 09.09.2024, passed by the learned Single Judge in WP(c)5219/2022; is liable to be set aside and the relief prayed for in the said writ petition filed on behalf of the appellants, may be granted.

13. Having heard the learned counsels appearing for the parties at length and after going through the materials available on record; we are of the considered view that the learned Single Judge had not taken into consideration the fact that the appellants have specifically pleaded in their writ petition that they are the members of the School Managing Committee of Ahmadia High School and the said fact has not been controverted by any of the respondents in the said writ petition. Hence, the said finding of the learned Single Judge cannot be sustained.

14. However, we are of the view that the learned Single Judge had not committed any illegality in relegating the appellants to approach the appellate authority against the renaming of the amalgamated school, in question.

15. The contention of Mr. Choudhury, learned senior counsel for the appellants, that the action of renaming of the amalgamated school, cannot be challenged by filing an appeal under Clause 19 of the Siksha Khetra Scheme, is not tenable because Clause 19 specifically provides that for any dispute arising out of an order, the aggrieved institution/public may appeal before the Government in the Secondary or Elementary Education Department as the case may be. Clause 19 of the Siksha Khetra Scheme, specifies that any dispute in respect of the order passed by the Director, Secondary Education Department, Assam, can be appealed which means that the order of amalgamation of two schools including the order of naming the school upon amalgamation, can be challenged by way of filing an appeal before the

appellate authority.

16. In view of the above discussions; we do not find any case for interference.

17. However, it would be open for the appellants, herein, to prefer an appeal as provided under Clause 19 of the Siksha Khetra Scheme within a period of 2(two) weeks, challenging the impugned order, dated 01.06.2022, passed by the Director, Secondary Education Department, Assam, before the appellate authority. If any such appeal is preferred by the appellants within the time-frame stipulated above; the appellate authority shall consider and decide the same expeditiously within a period of 6(six) weeks thereafter, after affording an opportunity of hearing to all the affected parties.

18. With the above observations, this writ appeal accordingly stands disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant