

GAHC010219442023



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

Case No. : WP(C)/5873/2023

MD. MIZAZUL ISLAM LASKAR
S/O- AKBAR ALI LASKAR, I/C HEADMASTER, JANATA ME SCHOOL, SONAI
UNDER SONAI EDUCATIONAL BLOCK, R/O- 86 KH, VILL- KACHUDARAM
PART-IV, P.O. KACHUDARAM, DIST. CACHAR, ASSAM, PIN- 788119.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY EDUCATION
DEPARTMENT), DISPUR, GUWAHATI, ASSAM, PIN- 781006.

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

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

CACHAR
SILCHAR.

4:THE DEPUTY INSPECTOR OF SCHOOLS
SILCHAR
CACHAR
ASSAM

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

SONAI EDUCATIONAL BLOCK

DIST. CACHAR
ASSAM

6:THE DISTRICT DEVELOPMENT COMMISSIONER
I/C EDUCATION
CACHAR
SILCHAR
ASSAM
PIN- 788001

Advocate for the Petitioner : MR. B. Purkayastha.

Advocate for the Respondent : Mr. B. Talukdar, SC, Elementary Education Department

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

JUDGMENT & ORDER (ORAL)

Date : 23-01-2024

Heard Mr. B. Purkayastha, learned counsel for the petitioner. Also heard Mr. B. Talukdar, learned standing counsel for the Elementary Education Department representing the respondents no. 1 to 6.

2. The challenge in the present proceeding is to an order dated 14.09.2023, issued by the In-charge District Elementary Officer (DEEO), Cachar, by which Smti Nandini Mukherjee, BEEO, Sonai was allowed to act as Member Secretary of Janata ME School. The grievance of the petitioner is that he was vide order dated 17.08.2022, allowed to function as In-charge Headmaster-cum-Member Secretary of Janata ME School and without modification of the said order, the impugned order dated 14.09.2023 came to be issued allowing the said authority as the Member Secretary of Janata ME School.

3. The petitioner, on a vacancy arising in the post of Headmaster-cum-Member Secretary of the Janata ME School was allowed vide order dated 03.03.2020, issued by the DEEO, Cachar, to function as the Member Secretary of the SMC for a period 2(two) months with effect from 01.02.2020 to 31.03.2020. Thereafter, the petitioner was vide order dated 17.08.2022, allowed to act as the In-charge Headmaster-cum-Member Secretary of the Janata ME SMC. The petitioner in terms of the said order dated 17.08.2022, started to function as the Headmaster-cum-Member Secretary of the SMC of the school in question. Thereafter, vide an order dated 27.03.2023, the In-charge DEEO, Cachar, without any reference to the said order dated 17.08.2022, proceeded to allow Smti Lipika Sinha In-charge, BEEO, Sonai to act as the Member Secretary of the Janata ME School.

4. In pursuance to the said order, the petitioner was directed by the DEEO, Cachar to handover all the relevant financial records relating to the SMC fund & CMDM (PM Poshan) fund to the respondent no. 6. The petitioner being aggrieved with the issuance of the order dated 27.03.2023, approached this Court by way of instituting WP(C)No. 2210/2023. This Court vide order dated 28.04.2023, passed in WP(C)No. 2210/2023, while issuing notice, noticing that the order dated 17.08.2022, by the which the petitioner was allowed to function as the In-charge Headmaster-cum-Member Secretary of the SMC of the school in question, having not been recalled or superseded vide the order dated 27.03.2023, directed that the order dated 17.08.2022 shall remain in force.

5. During the pendency of the proceeding in WP(C)5873/2023, the In-charge DEEO, Cachar, vide order dated 14.09.2023, proceeded to modify the order dated 27.03.2023 and allowed one Nandini Mukherjee, BEEO, Sonai to act as the Member Secretary of the school in question in place of said Smti Lipika Sinha. The petitioner, being aggrieved by the order dated 14.09.2023, instituted the present

proceeding.

6. This Court, vide order dated 13.10.2023, while issuing notice in the present proceeding and noticing that the order dated 14.09.2023, having been so issued during the currency of the directions passed by this Court vide order dated 28.04.2023 in WP(C)No. 2210/2023, proceeded to stay the effect and operation of the impugned order dated 14.09.2023 with further direction that the DEEO, Cachar shall strictly comply with the direction as contended in Paragraph-10 of the order dated 28.04.2023, passed by this Court in WP(C)No. 2210/2023.

8. It is to be noted here that vide communication dated 17.11.2023, it was brought to the notice of this Court that in pursuance of the direction as contained in the order dated 13.10.2023, passed by this Court in the present proceeding, the petitioner was allowed to continue as the In-charge Headmaster-cum-Member Secretary of the SMC of the school in question. Today, when the matter was taken up for consideration, Mr. B. Talukdar, learned counsel has placed on record an order dated 22.01.2023, issued by the Assistant Commissioner, Cachar and DEEO, Cachar, by which the impugned order dated 14.09.2023 was cancelled and the order of the DEEO, dated 27.10.2023, allowing the petitioner to continue as the In-charge Headmaster-cum-Member Secretary of the SMC in the school in question was directed to remain in force.

9. In the present proceedings, the issue arising being the validity of the order dated 14.09.2023 and the same impugned order dated 14.09.2023, having already been cancelled by the respondent authorities, no issue exists for adjudication in the present proceeding.

10. In view of the above position, it is directed that the petitioner subject to any legal impediment arising, shall be allowed to continue to function as the In-charge

Headmaster-cum-Member Secretary of the SMC of the school in question in terms of the order dated 17.08.2022, till the post of the Headmaster-cum-Member Secretary of the school in question is filled up on regular basis.

11. With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant