

GAHC010283872023



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

Case No. : WP(C)/7351/2023

MD MAINUL ISLAM
S/O- MD. SHER ALI, RESIDENT OF VILLAGE- GORAIMARI PAM,
P.O.- BALIKATIA, DISTRICT- NAGAON, ASSAM.

VERSUS

1: THE STATE OF ASSAM AND 4 ORS REPRESENTED BY THE
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (SECONDARY), DISPUR,
GUWAHATI- 781006.

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

3: THE INSPECTOR OF SCHOOL
NAGAON DISTRICT CIRCLE NAGAON ASSAM. PIN- 782001.

4: ALITANGANI OSMANIA HIGHER SECONDARY SCHOOL REPRESENTED
BY ITS PRINCIPAL P.O.- ALITANGANI DIST.- NAGAON ASSAM PIN- 782124.

5: THE PRINCIPAL I/C ALITANGANI OSMANIA HIGHER SECONDARY
SCHOOL P.O.- ALITANGANI DIST.- NAGAON ASSAM PIN- 782124

Advocate for the Petitioner : MR D K DAS

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 10-01-2024

Heard Mr. D.K. Das, learned counsel for the petitioner. Also heard Mr.

S.M.T. Chistie, learned standing counsel, Education (Secondary) Department, representing the respondent Nos.1 to 3.

The petitioner, by way of preferring the present writ petition, has made a prayer that the post of Principal in Alitangani Osmania Higher Secondary School, Nagaon shall fall vacant on the retirement of the incumbent therein, namely, Md. Abdus Samad w.e.f. 31.12.2024. He apprehends that the said post on retirement of the present incumbent shall not be filled up by complying with the provisions of Rule 12 of the Assam Secondary Education (Provincialised Schools) Service Rules, 2018 (for short, "2018 Rules") and as such, has instituted the present writ petition.

The nature of the prayer made in the writ petition clearly reflects that the present proceeding is a premature one and it is only based on an apprehension, which is yet to be fortified.

In that view of the matter, this Court is of the view that the instant writ petition in the present form is not maintainable and accordingly, the same is dismissed.

However, dismissal of the present writ petition shall not be construed by the respondent authorities that they are at liberty to fill up the post of Principal in Alitangani Osmania Higher Secondary School, Nagaon on a vacancy arising therein *dehors* the mandatory provisions of Rule 12 of the 2018 Rules. The respondent authorities are required to fill up any such vacancy strictly in compliance with the Rules and by appointing person who is eligible for such appointment in terms of the provisions of Rule 12 of the 2018 Rules.

JUDGE

Comparing Assistant