

GAHC010311412019



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

Case No. : Review.Pet./61/2020

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT,
DISPUR, GUWAHATI-781006.

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

3: THE INSPECTOR OF SCHOOLS

KAMRUP DISTRICT CIRCLE
AMINGAON
GUWAHATI-3

VERSUS

SRI CHANDAN KALITA AND 2 ORS
S/O LT. BHARAT CH. KALITA, R/O BAMUNI, P.O. BAMUNDI, DIST- KAMRUP,
ASSAM, PIN 781101.

2: SUBODH KALITA
S/O LATE NAGEN KALITA
RESIDENT OF VILL. BAMUNDI
P.S. SUALKUCHI
P.O. BAMUNDI
DIST. KAMRUP
ASSAM
PIN 781103.

3: THE HEAD MASTER
BAMUNDI HIGH SCHOOL
VILL. AND P.O. BAMUNDI

P.S. SUALKUCHI
DIST- KAMRUP
ASSAM
PIN-781103

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : MR D K NATH

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

14.03.2024

Heard Mr. R. Mazumdar, learned counsel for the review petitioner and Mr. D.K. Nath, learned counsel for the writ petitioner.

2. While disposing of the writ petition being WP(C) No. 286/2016 preferred by one Sri Chandan Chandra Kalita, the Court by its order dated 04.10.2019, imposed an exemplary cost of Rs. 1,50,000/- on (i) The Commissioner and Secretary to the Government of Assam, Education Department; (ii) The Director of Secondary Education, Assam and (iii) the Inspector of Schools, Kamrup District Circle, Amingaon, Guwahati, being respondent Nos. 1, 2 and 3, respectively therein for non-compliance of the orders of the Court passed earlier on 05.04.2001 in WP(C) No.1766/1999 and dated 02.01.2006 passed in WP(C) No.6779/2005, both preferred by the same petitioner Sri Chandan Chandra Kalita pertaining to a post of Lower Division Assistant (LDA) in Bamundi High School, Bamundi, District-Kamrup, Assam.

3. It is submitted by Mr. R. Mazumdar, learned counsel for the review petitioner that though the State respondents pursuant to the order dated

04.10.2019 passed in WP(C) No. 286/2016, prepared the speaking order after hearing the parties, but could not issue the same due to adjudication of a writ appeal preferred by the private respondent Subodh Kalita against the judgment and order dated 04.10.2019 passed in WP(C) No. 286/2016. But, later, the Secretary to the Government of Assam in the Department of School Education, after hearing the writ petitioner Sri Chandan Chandra Kalita and the private respondent Subodh Kalita and on complying with the directions of this Court passed earlier on 05.04.2001 passed in WP(C) No. 1766/1999; order dated 02.01.2006 passed in WP(C) No. 6779/2005 and order dated 04.10.2019 passed in WP(C) No. 286/2019, found that the appointment of Subodh Kalita as LDA in Bamundi High School was not just and proper as he was appointed on the basis of a select list where there was no signature of the Chairman and Members of the Selection Committee whereas his appointment was made on the instruction of the then Education Minister.

4. Hence, the State respondents in the Department of School Education filed this review petition for recalling of the order dated 04.10.2019 passed in WP(C) No. 286/2016 (*Sri Chandan Chandra Kalita –vs- State of Assam and four others*), whereby the exemplary cost of Rs. 1,50,000/- was imposed upon the (i) The Commissioner and Secretary to the Government of Assam, Education Department; (ii) The Director of Secondary Education, Assam and (iii) the Inspector of Schools, Kamrup District Circle, Amingaon, Guwahati.

5. During the deliberation of this review petition, Mr. R. Mazumdar, learned Standing counsel, School Education (Secondary) also placed before the Court that the State Government in the Department of School Education through the Secretary, Government of Assam in the Department of School Education, vide order No. E-E-448841/102 dated 19.02.2024 decided to

terminate the service of said Subodh Kalita with immediate effect, who was illegally appointed to the post of LDA in Bamundi High School in 1999 and thereafter up-graded as Assistant Teacher in the same school.

6. Mr. R. Mazumdar, learned counsel submitted that pursuant to the same, the Inspector of Schools, Kamrup District Circle, Amingaon by order dated 05.03.2024 terminated the service of said Subodh Kalita and that the Headmaster of Bamundi High School by his communication dated 08.03.2024 also informed that the said termination order dated 05.03.2024 issued by the Inspector of Schools, Kamrup District Circle, noted above, has already been served upon said Subodh Kalita. To that extent, the Inspector of Schools, Kamrup, Amingaon has also placed an affidavit filed today (14.03.2024).

7. After hearing the learned counsel for the parties and considering the entire aspect of the matter and since the respondent authorities in the Department of School Education have complied with the directions of this Court passed earlier on 05.04.2001 in WP(C) No. 1766/1999; order dated 02.01.2006 passed in WP(C) No. 6779/2005 and order dated 04.10.2019 passed in WP(C) No. 286/2019, the order of imposition of exemplary cost of Rs.1,50,000/- that was directed to be paid by the (i) The Commissioner and Secretary to the Government of Assam, Education Department; (ii) The Director of Secondary Education, Assam and (iii) the Inspector of Schools, Kamrup District Circle, Amingaon, Guwahati is hereby recalled as passed earlier in the order dated 04.10.2019 in WP(C) No. 286/2016, as specified at paragraph 36 of the said order, noted above.

8. It is clarified that only to the extent above the order dated 04.10.2019 passed in WP(C) No. 286/2016 is hereby reviewed and recalled. However, it

is made clear that other findings, observations and directions passed in the order dated 04.10.2019 in WP(C) No. 286/2016 shall remain intact.

9. This order shall be read together with the order dated 04.10.2019 passed in WP(C) No. 286/2016.

10. With the above observations and directions, this review petition is allowed to the extent as indicated above.

JUDGE

Comparing Assistant