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

Case No. : WP(C)/6920/2025

SMT KAKOLI DEB
W/O SRI SANJIB DAS, SUBJECT TEACHER (LOGIC AND PHILOSOPHY), PM SHRI JUDHISTHIR SAHA H.S. SCHOOL, BEHARA BAZAR, DIST- CACHAR, ASSAM, PIN-788817

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI, PIN-781006

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILLIPARA
GUWAHATI - 781019

3:THE INSPECTOR OF SCHOOL
CDC
CACHAR
SILCHAR
ASSAM
PIN-78800

Advocate for the Petitioner : MR M CHANDA, MR. R GHOSH,MS. K BHATTACHARYYA,DR G J SHARMA

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

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 19.06.2026

Heard Mr. G. J. Sharma, the learned counsel for the petitioner and Mr. B. Kaushik, the learned standing counsel for the Secondary Education Department.

2. By this application the petitioner has endeavoured to invoke the extra ordinary jurisdiction of this court under Article 226 of the Constitution of India for a writ in the nature of Certiorari for setting aside the order dated 27.08.2025, by which the order appointing the petitioner as In-charge Principal of PM-Shri Judhisthir Saha HS School, Behara Bazar, District-Cachar (Assam), was kept in abeyance. The petitioner has also prayed for a writ in the nature of mandamus, directing the respondents to give effect to the order dated 19.07.2025, by which the petitioner was allowed to act as a Principal In-charge of the said school. A prayer is also made to appoint the petitioner as a regular Principal in the said school against any available vacancy.

3. The case of the petitioner is that she was appointed as a subject teacher of Logic and Philosophy in PM-Shri Judhisthir Saha HS School, Behara Bazar, District-Cachar (Assam), by order dated 06.11.1995 and in pursuant to the said order, the petitioner has joined the said school on 13.11.1995 and her services was also regularized by order dated 23.09.1999 and since then, the petitioner has been working as the subject teacher in the said school.

4. It is also stated by the petitioner that although she was mentioned as the Assistant Teacher of the said school in few documents but she is the Subject Teacher, i.e. the Post-Graduate Teacher of the school.

5. She further states that during her service career in the said school, a Seniority List, dated 18.06.2025 was prepared wherein she was placed as Serial No. 4.

6. It is the further case of the petitioner that while she was serving as the Subject Teacher of the said school, the principal of the school retired during the year 2021 and since then the post of principal was lying vacant. Subsequently, by order dated 19.07.2025, the petitioner was allowed to act as a Principal In-charge of the said school along with the financial power to draw and disburse the salary etc. of the staff of the school in addition to her normal duties as Teacher under F.R.-49(C). It is stated that pursuant to the retirement of the Principal of the said school as stated above, the Inspector of School was holding the In-charge Principal of the said school and thereafter, the petitioner was allowed to act as such.

7. The petitioner further states that she was on leave when that order was passed allowing her to join as a In-charge Principal and that before she could join as Principal In-charge, an order was passed by the Director of Secondary Education Assam on 27.08.2025, by which the earlier order dated. 19.07.2025, allowing the petitioner to hold the post of In-charge Principal of the said school was kept in abeyance till further order. Aggrieved by the same, the petitioner had filed a representation to the Director of Secondary Education Assam, on 08.09.2025, but till date she did not get any response, and as such, she filed the instant case before this court.

8. During the pendency of the instant petition, respondent no. 2 filed the affidavit-in-opposition and in the same, a letter was annexed dated 22.07.2025, by which, the President of School Management & Development Committee had

intimated the Director of Secondary Education, Assam that keeping in view the public interest, he recommends another existing academic In-charge, namely, Nirupam Nath, to be appointed as an In-charge Principal of the said school. In the said letter, it was also intimated that petitioner although had the right to go on leave but the petitioner was stated to have enjoyed both Child Care Leave (CCL) as well as Earned Leave several times and since the school has a high enrolment of students, the president of SMDC had expressed his opinion that it was necessary to appoint an individual, who could render best possible service to the said school. The respondent no. 2, apart from annexing the letter had also stated in the affidavit that to maintain administrative decorum of the school the order dated 27.08.2025 was issued.

9. It is also stated in the affidavit that after keeping the order dated 19.07.2025, in abeyance, the Inspector of School, was given the charge of Principal of the said school.

10. The learned counsel for the petitioner submits that the petitioner has been working in the school as a Post-Graduate Teacher since the date of her appointment to the best of her capacity and that she was appointed as the In-charge Principal of the said school. He submits that calling back the order appointing her as In-charge Principal and keeping it in abeyance was without any authority of law. He submits that the petitioner had taken leave both CCL and EL but then those were taken by the petitioner only after applying and after getting the permission from the appropriate authorities. As such, there cannot be any misconduct on the part of the petitioner and the same cannot be a ground for keeping the order allowing her to act as In-charge Principal in abeyance.

11. To substantiate his argument, he has referred to the notification issued on 7th of April, 2025, wherein, the provisions relating to Child Care Leave as well as Earned Leave were mentioned. He has also placed Section 12 of Assam Secondary Education (Provincialised Schools) Rules, 2018, wherein, it is provided that both seniority and eligibility will be seen while giving appointment to the principal of the school and by showing a Judgment of this Court rendered in "***Bikash Upadhyaya Vs. State of Assam***" rendered by this High Court in Writ Petition No. 2122/2023, he submits that the requirement provided for in appointment of a regular principal should be also followed during appointment of In-charge Principal of any school. He as such, submits that the petitioner being senior to the other candidates was rightly allowed to hold the post of In-charge Principal of the said school.

12. He further, submits that the teachers, who were senior to the petitioner as shown in the seniority list had crossed the age limit of 57 years and as such, they having become ineligible, the petitioner was the only eligible teacher to be appointed in the said post.

13. On the other hand, Mr. B. Kaushik, the learned standing counsel for the Secondary Education Department submits that the letter relied on by the respondent no. 2, was not in derogatory of the petitioner's service to the school but it was only relied with the view to make the school run in the best possible manner. He further submits that while appointing In-charge Principal of the school, the norms that are usually followed is that the teacher should be senior to other candidates.

14. He also submits that it is an admitted position that the petitioner had taken leave both CCL and EL a number of times and it is only for the betterment

of the school that the said order was kept in abeyance by respondent no. 2. He also submits that petitioner had not gone and join as the Principal In-charge of the school and that no rights had accrued to her in view of the Order dated 19.07.2025.

15. I have heard the counsels and have gone through the records as well as the Law relevant for the purpose and this Court finds the following:

(i) The petitioner was admittedly, a Post Graduate Teacher appointed in the school by order dated 06.11.1995 after which her service was regularized and she was working in the said school since then.

(ii) She being the senior most teacher in the school after three numbers of teacher, who had crossed the eligibility criteria for being allowed to act as an In-charge Principal, was allowed for the same.

(iii) It is not her fault that she went on leave during the order when it was issued, i.e. on 19.07.2025, and when she came back after the period of her leave, she found both the orders, i.e. Order dated 19.07.2025, when she was allowed to work as an In-charge Principal and Order dated 27.08.2025, when that order was kept in abeyance.

(iv) It is further seen that the order allowing her to serve as the In-charge Principal of the school was passed by the Director of Secondary Education, Assam and the letter that was written alleging that she had taken leave a number of times and that another teacher would be more suited for the post was by the president of SMDC of the said school.

(v) It is also seen that the said letter was in the form of a request for

review of the approval given for appointing the petitioner as Principal In-charge of the said school and it can by stretch of reasoning be the basis for keeping in abeyance the order by which the petitioner was allowed to hold the post of In-charge Principal of the said school. If any misconduct is seen in case of the petitioner an entire procedure is provided for under the rules.

(vi) It is also seen that the petitioner had taken leave in the nature of Child Care Leave or the Earned Leave after duly applying and obtaining the permission from the authorities. The respondent had also not stated in the affidavit about any misconduct of the petitioner.

(vii) Further, it is already settled by this court that the criteria applicable for appointment to the post of regular principal of the school should be made applicable even in cases of appointment of In-charge Principal of the school and in the said rules, both eligibility and seniority should be taken care of and the detail procedure is provided for appointment to the post of Principal which is by way of a direct recruitment but in case of appointment of In-charge Principal the normal criteria followed as could be seen from the case laws is that of seniority. In view of the same, the petitioner being found senior in the school was allowed to hold the post of In-charge principal.

(viii) On the other hand, Mr. Nirupam Nath, whose name was recommended by the SMDC was at Serial No. 7, of the seniority list, i.e, after three candidates from the petitioner. Furthermore, the teachers appearing above the petitioner have crossed the 57 years of age for appointment to the post of regular principal which again should be considered while allowing teachers to hold the post of In-charge Principal of the school.

22. As such, the order dated 27.08.2025, is quashed by this Court and as a natural corollary the petitioner should be allowed to join as an In-charge Principal of the said school. Further, the Director of Education is given the liberty to proceed against the petitioner if any misconduct is found on her part as per law. Further the Director of Education is also ordered to conduct the selection and appointment of Regular Principal of Higher Secondary School as per the Act without any delay so that the eligible participants do not get over aged for such consideration with time.

23. The writ petition stands disposed of.

JUDGE

Comparing Assistant