GAHC010029652020

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

**Case No. : Review.Pet. 14/2020**

1:MD. NURJAMAL HOQUE
R/O- VILL.- PURANKUCHIA, P.O. TOPAR PATHER, P.S. CHHAYGAON, DIST.- KAMRUP, ASSAM.

VERSUS

1:THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR, GHY-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
GOVT. OF ASSAM
DISPUR
GHY-06.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER (DEEO)
DADARA
P.O. DADARA
DIST.- KAMRUP(R)
ASSAM
GUWAHATI-31

4:THE BLOCK ELEMENTARY EDUCATION (BEEO)
CHHAYGAON
P.O. AND P.S. CHHAYGAON.

5:ASHAN ALI
HEAD MASTER OF NO. 2 KALAHIPAR L.P. SCHOOL
P.O. TOPAR PATHER
P.S. CHHAYGAON
DIST.- KAMRUP
ASSAM
PIN- 781127.

6:THE IMPUGNED EARLIER SMC
REP. BY MD. SHAH ALOM
S/O- MUTALEB ALI
R/O- VILL.- PURANKUCHIA
P.O. TOPAR PATHER
P.S. CHHAYGAON
DIST.- KAMRUP
ASSAM
PIN- 781127

**Advocate for the Petitioner** : MR A ALI

**Advocate for the Respondent** : SC, ELEM. EDU

**BEFORE**
**HONOURABLE MR. JUSTICE N. KOTISWAR SINGH**

**ORDER**

**Date : 13-02-2020**

Heard Mr. A. R. Bhuyan, learned counsel for the review petitioner and Ms. N. Phukan, learned Standing Counsel, Elementary Education Department, Government of Assam.

**2.** The present review petition has been filed seeking review/recalling of the order dated 01.11.2019 passed in WP(C) No.3647/2016 by which the said writ petition was closed taking into consideration the order passed in WP(C) No.2892/2017.

**3.** It has been submitted by learned counsel for the review petitioner that the said WP(C) No.3647/2016 was tagged with another writ petition, namely, WP(C) No.2892/2017 and the said WP(C) No.2892/2017 was closed on the submission made by learned counsel for the petitioners that the petition had become infructuous as the petitioners were allowed to construct the School in the original place vide order dated 14.10.2019 passed by the Block Development Officer of Chaygaon Development Block.

**4.** Learned counsel for the review petitioner submits that even if the authorities had allowed to construct the School in the original place as mentioned in the order dated 01.11.2019 passed in WP(C) No.2892/2017, the petitioners in WP(C) No.3647/2016 would

pray for continued use of the earlier School building which was already constructed and, as such, it cannot be said that WP(C) No.3647/2016 has become infructuous. However, unfortunately, the said writ petition was closed as the counsel for the petitioners was absent on that day. Accordingly, learned counsel for the review petitioner has prayed for review/recalling the order dated 01.11.2019.

**5.** This Court on perusal of the aforesaid order finds that on merit, no order had been passed in the aforesaid writ petition and the said order was passed in absence of the learned counsel for the petitioners in WP(C) No.3647/2016. Moreover, the prayer for recalling the said order dated 01.11.2019 has not been objected to by learned Standing Counsel, Elementary Education Department.

**6.** In view of above, the order dated 01.11.2019 passed in WP(C) No.3647/2016 is hereby recalled and the aforesaid writ petition is restored to file.

**7.** Registry will list WP(C) No.3647/2016 after a week.

**8.** Review petition is accordingly allowed.

**JUDGE**

**Comparing Assistant**