GAHC010191672020

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

Case No. : WP(C)/5753/2020

MD. FAKHRUL ISLAM
S/O- LT. MD. RASMAN ALI, A R/O- VILL- EAST HAITORKHA, P.O. PATHARKANDI, DIST.- KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
TO BE REP. BY THE COMM. AND SECY. ASSAM EDUCATION TO THE SECONDARY DEPTT.

2:THE DIRECTOR SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE INSPECTOR OF SCHOOLS
KARIMGANJ DISTRICT CIRCLE
DIST.- KARIMGANJ
ASSAM

4:ABUL HUSSAIN MD. LUQMAN
LECTURER
ASIMIA TITLE MADRASSA
P.O. KANAI BAZAR
DIST.- KARIMGANJ
ASSAM
PIN- 78872

Advocate for the Petitioner : MR A R BHUYAN

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 22-12-2020

Heard Mr. AR Bhuiyan, learned counsel for the petitioner. Also heard Ms. P Chakraborty, learned counsel for the Secondary Education Department, Government of Assam and Mr. M Khan, learned counsel for the respondent No.4 Abul Hussain Md. Luqman.

2. The petitioner was appointed as an M.M Assistant Teacher at Asimia Senior Madrassa and is presently serving as the Superintendent of the said Madrassa. The respondent No.4 is the only Lecturer in the Asimia Title Madrassa. The earlier Principal of the Asimia Title Madrassa Abu Md. Sufian retired from service on 30.11.2020 and at the time of his retirement, he handed over the charge of Principal of the Asimia Title Madrassa to the petitioner Md. Fakhrul Islam, who is infact the in-charge Superintendent of the Asimia Senior Madrassa. There is a communication dated 10.12.2020 from the Director of Secondary Education Assam addressed to the Commissioner and Secretary to the Government of Assam in the Secondary Education Department which refers to certain allegations being raised against the respondent No.4 Abul Hussain Md. Luqman by one Abdul Ahad, General Secretary, Madrassa Education Development Association, Assam.

3. We are not interested in the nature of the allegation nor on the correctness and veracity of such allegation. What we take note of is that by the same communication dated 10.12.2020, the Director had arrived at his conclusion that there is only one Lecturer in the Asimia Title Madrassa, whereas there are 20(twenty) numbers of teaching and non-teaching staff in the Asimia Senior Madrassa and both the institutes are located in the same campus. Accordingly, a proposal was made that the Asimia title Madrassa and the Asimia Senior Madrassa may be merged by treating the same as a special case.

4. Accordingly, the said proposal was sent by the Commissioner and Secretary to the

Government of Assam by the communication dated 10.12.2020, but before any such decision could be taken by the Commissioner and Secretary, Secondary Education Assam, the order impugned dated 18.12.2020 was passed by the Director, Secondary Education Assam allowing the respondent No.4 Abul Hussain Md. Luqman to be the Principal in-charge of the Asimia Title Madrassa.

5. Without expressing any view on the merit of either the petitioner to continue as the in-charge Principal or whether the Principal in-charge should be the respondent No.4 being the only Lecturer of the Asimia Title Madrassa, we require the Commissioner and Secretary to the Government of Assam in the Secondary Education Department to bring a logical end to the proposal of the Director, Secondary Education Assam contained in the communication dated 10.12.2020 and take a reasoned decision thereof. If the decision is in favour of the merger, the consequence thereof may follow and the in-charge Principal would be suitably decided and on the otherhand, if the decision is not to go ahead with the merger, the respondent No.4 Abul Hussain Md. Luqman, being the only Lecturer of the Asimia Title Madrassa be allowed to continue as the in-charge Principal. Till such a decision is taken by the Commissioner and Secretary, the order dated 18.12.2020 allowing the respondent No.4 to be the in-charge Principal shall not be given its effect.

6. However, we require the Commissioner and Secretary to pass a reasoned order and take a decision within a period of 7(seven) days from the date of receipt of a certified copy of this order.

7. We also require the Commissioner and Secretary to give a personal hearing to respondent No.4 Abul Hussain Md. Luqman to present his view on the matter and for the purpose, the Commissioner and Secretary shall inform the respondent No.4, the date, time and place of such hearing to be taken place.

8. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant