GAHC010233342026

2026:GAU-AS:16027

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

Case No. : WP(C)/5946/2026

SRI SUBHASH CHANDRA DAS
S/O-SUBUDH RANJAN DAS, R/O-VTC SIMALUGURI, P.O.-SIMALUGURI, SUB DIST.-KAMPUR, DIST.-NAGAON, STATE-ASSAM, PIN-782426.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DISTRICT COMMISSIONER
NAGAON CUM DISTRICT MISSION CO-ORDINATOR SAMAGRA SHIKHA
NAGAON
ASSAM
PIN-782001

3:THE INSPECTOR OF SCHOOL
NAGAON DISTRICT CIRCLE CUM DEEO
NAGAON
ASSAM
PIN 782001

4:THE DEPUTY INSPECTOR OF SCHOOLS OF NAGAON AND KALIABOR SUB-DIVISION
NAGAON AND KALIABOR SUB-DIVISION
PIN 782001

5:THE BLOCK ELEMENTARY EDUCATION OFFICER CUM BLOCK MISSION CO-ORDINATOR
NAGAON
ASSAM
PIN-782001

6:THE HEADMASTER OF HATIGORH BAMUNITHAN LP SCHOOL
VILLAGE NO.2 JURIA IN THE DISTRICT OF NAGAON
PIN 782426

Advocate for the Petitioner : MR. M J BARUAH, MR. A. ALI

Advocate for the Respondent : GA, ASSAM, SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 02.11.2026

Heard Mr. M.J. Baruah, learned counsel for the petitioner; Mr. S.M.T. Chistie, learned Standing Counsel, Elementary Education Department for the respondent nos. 1, 3, 4 & 5 and Ms. S. Konwar, learned Junior Government Advocate, Assam for the respondent no. 2.

2. The Ward of the petitioner is a student in Hatigorh Bamunithan Lower Primary School located in Village – No. 2 Juria, District - Nagaon, Assam. After a General Meeting of parents/guardians of the students/teachers of Hatigorh Bamunithan Lower Primary School held for the constitution of the School Management Committee [SMC], the respondent no. 3 accorded approval on 28.08.2026 for constitution of the SMC with the petitioner as the President of the SMC.

3. The petitioner has approached this Court raising an apprehension that the petitioner is likely to be replaced/removed as the President of the SMC of Hatigorh Bamunithan Lower Primary School in view of an Office Letter addressed by the respondent no. 2 to the respondent no. 5 on 28.08.2026 on the subject : 'Regarding Constitution, as well as the Roles and Responsibility of School Management Committee, etc.'

4. From the contents of the Office Letter dated 28.08.2026, it is discernible that the respondent no. 2 on receipt of a Communication from the Samagra Shikha, Assam has requested the respondent no. 5 to take necessary actions in accordance with the norms for Constitution, as well as for Roles and Responsibility of the School Management Committees in

Government / Provincialised Lower Primary, Upper Primary, Secondary and Secondary Education Schools, Assam as per Section 21 of the Right of Children to Free and Compulsory Education Act, 2009.

5. Section 21 of the Right of Children to Free and Compulsory Education Act, 2009 ['the 2009 Act', for short] has provided for constitution of a School Management Committee [SMC] consisting of the elected representatives of the local authority, parents or guardians of children admitted in such school and teachers, provided atleast three-fourth of members of the SMC shall be parents or guardians. Section 21 has also outlined the functions to be performed by such SMC. It has been made clear that the SMC shall perform advisory function only.

6. By virtue of the power conferred by Section 38 of the 2009 Act, the State of Assam has made a set of rules, the Assam Right of Children to Free and Compulsory Education Rules, 2011 ['the 2011 Rules', for short]. Rule 13 of the 2011 Rules has provided for composition and functions of SMC for the purposes of Section 21. As per Rule 13, a School Management Committee [SMC] shall be formed for each school and the Committee would be a permanent body of which, the President and Members shall have a term of three years. However, they can continue to function beyond three years till the new President and Members take over. Efforts should be made to form the new Committee one month before the expiry of the term of the outgoing committee.

7. According to the petitioner, the approval of the School Management Committee wherein the petitioner has been elected as the President was granted on 08.11.2024. There is nothing in the Office Letter dated 28.08.2026 of the respondent no. 2 to the effect that there is any contemplation to change the constitution of the SMC of Hatigorh Bamunithan Lower Primary School.

8. A mere apprehension without any basis does not give rise to a cause of action, as has been sought to be canvassed by the petitioner in the instant writ petition. From the facts pleaded in the writ petition, the writ petition is found to have been filed without any cause of action. Therefore, the writ petition is dismissed. No Cost.

JUDGE

Comparing Assistant