

GAHC010019312023



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

Case No. : WP(C)/650/2023

DR. MD SHIRAJUL ISLAM
EX-PRESIDENT, SMDC, ALITANGONI OSMANIA HIGHER SECONDARY
SCHOOL, S/O LATE ABDUL HAMED AKOND, R/O VILL-NAGAON,
BIDYANAGAR, P.O.-DHING ROAD, DIST-NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
ASSAM, DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI-6

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

3:THE DEPUTY COMMISSIONER
NAGAON
DIST-NAGAON
ASSAM

4:THE INSPECTOR OF SCHOOLS
NAGAON DISTRICT CIRCLE
NAGAON
ASSAM

5:RUKUN UDDIN AHMED
S/O LT. RIAZ UDDIN AHMED
VILL AND P.O.-DAGAON
DIST-NAGAON
ASSAM

6:ZIAUR RAHMAN
S/O SOFIQUL ISLAM
VILL-P.O.-ALITANGANI
P.S.-JURIA
DIST-NAGAON
ASSA

Advocate for the Petitioner : MR. A R BHUYAN

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER

Date : 15.02.2024

Heard Mr. A. R. Bhuyan, learned counsel for the petitioner. Also heard Ms. P. Das, learned standing counsel for the Secondary Education Department representing the respondents no. 1, 2 & 4 and Mrs. D. Das Barman, learned Addl. Senior Government Advocate representing the respondent no. 3; Mr. P. Saikia, learned counsel for the respondent no. 5 as well as Ms. S. S. Zia, learned counsel for the respondent no. 6.

2. The petitioner in the present proceedings has presented a challenge to a communication dated 08.09.2022, by which the Inspector of Schools, NDC, Nagaon had nominated the respondents no. 5 & 6 as the President and the Vice-President of the Alitangani Osmania Higher Secondary School.

3. It is the case of the petitioner that in terms of the guidelines as

notified vide the notification dated 24.06.2016 read with the notification dated 27.10.2021, the name of the respondent no. 5 was not forwarded by the school authorities for consideration of his case for the post of President of the School Management and Development Committee (SMDC) of the said school. The name of the respondent no. 6 was forwarded by the school authorities against the post of President of the SMDC of the said school, however, he was nominated as the Vice President of the SMDC of the school at the whim enterprise of the authorities empowered to make such nominations.

4. It is stated at the bar that pertaining to the nomination as made in respect of the respondent no. 5, a writ petition was instituted before this Court being WP(C)/7192/2022 and this Court vide order dated 25.01.2024 was pleased to dispose of the said writ petition interfering with the nomination made in the case of the respondent no. 5. This Court vide order dated 25.01.2024, passed in WP(C)/7192/2022 upon interference being made with the nomination in respect of the respondent no. 5 herein had directed the respondent authorities to initiate a fresh process for nomination against the post of President of the SMDC of the said school strictly in accordance with the guidelines notified in the notification dated 24.06.2016 read with the notification dated 27.10.2021.

5. In view of the interference made in respect of the nomination of the respondent no. 5 as the President of the SMDC of the said school by this Court vide the order dated 25.01.2024, passed in WP(C)/7192/2022, the

challenge as made in the present proceedings stands allowed by interfering with the nomination so made in respect of the respondent no. 5 by the Inspector of Schools, NDC, Nagaon vide the communication dated 08.09.2022.

6. Insofar as the allegations made against the respondent no. 6 is concerned, it is left open to the petitioner to prefer a detailed representation on this count before the Director of Secondary Education, Assam.

7. In the event, if any such representation is filed by the petitioner herein, the same shall be considered by the Director of Secondary Education, Assam by causing an enquiry into the allegations brought on record against the respondent no. 6 and on conclusion of such enquiry pass a speaking order recording findings upon each of the allegation so leveled against the respondent no. 6. The nomination of the respondent no. 6 as the Vice-President of the SMDC of the said school shall be regulated in terms of the speaking order which is to be passed by the Director of Secondary Education, Assam on conclusion of the said enquiry. It is provided that the respondent no. 6 shall be given a hearing in the enquiry and the findings be arrived at by taking into account the stand of the respondent no. 6.

8. The petitioner shall furnish to the Director of Secondary Education, Assam a copy of this order along with a copy of the representation that

may be preferred by him and the Director of Secondary Education, Assam shall on receipt of the same, proceed in the manner as directed herein above and thereafter pass a reasoned speaking order within 90 days from the date of receipt of a certified copy of this order.

9. With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant