

GAHC010006132024



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

Case No. : WP(C)/178/2024

RAFIKUL ISLAM
S/O- MAHAMMAD ALI, VILL- NO.1 UTTAR RANGAPANI, P.O. TUPAMARI,
DISTRICT- KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI- 06

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

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KAMRUP AT AMINGAON
ASSAM

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BARPETA
ASSAM

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
CHAMARIA
DISTRICT- KAMRUP
ASSAM

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
CHENGA
DISTRICT- BARPETA
ASSAM

7:THE HEADMASTER OF UTTAR RANGAPANI L.P.SCHOOL
P.O. TUPAMARI
DISTRICT KAMRUP
ASSAM
PIN- 781127

8:THE HEADMASTER OF MAHACHARA M.V. SCHOOL
P.O. KACHUMARA DISTRICT BARPETA
ASSAM
PIN- 781127

9:SUMAR ALI
S/O- LATE HASEN ALI
R/O- NO. 1 UTTAR RANGAPANI
P.O. TUPAMARI
DIST.- KAMRUP
ASSAM
PIN- 78112

Advocate for the Petitioner : MR. S HOQUE

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 29.01.2024

Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Mr. P. K. Borah, learned standing counsel, Elementary Education Department, appearing on behalf of the official respondents.

2. By instituting this writ petition, the petitioner has presented a challenge to the nomination submitted by the Respondent No. 9 for the post of President of the School Managing Committee(SMC) of Uttar Rangapani L.P. School.

3. The case as projected by the petitioner in this writ petition is that the private Respondent No. 9 was the President of the School Managing Committee(SMC) of the school, in question, and the term of the constituent members of the School Managing Committee(SMC) had expired and the departmental authorities had issued Notification, dated 03.08.2023 for re-constitution of the School Managing Committee's in terms of the provisions of the Assam Right of Children to Free and Compulsory Education Rules, 2011.

Accordingly, it is stated by the petitioner that a General Meeting was convened by the school authorities on 13.11.2023 and the petitioner, Respondent No. 9 and few others had put-forth their candidature for the post of President of the School Managing Committee(SMC) of the said school. However, the selection of the School Managing Committee (SMC) did not occasion and it was decided to hold a selection for the purpose. The Headmaster of the school circulated a Notification on 14.11.2023 inviting nominations for the post of President of the School Managing Committee(SMC) of the said school. Such nominations were to be submitted w.e.f. 14.11.2023 till 18.11.2023 along with a security deposit of Rs. 5,000/- . The petitioner as well as the Respondent No. 9 submitted their respective nominations. The nomination as submitted by the Respondent No. 9 was objected to by the petitioner and others on the ground that the Respondent No. 9 at the time of submission of such nomination, was not a parent of any student studying in the school. It is further projected by the petitioner that the son of the petitioner who was a student of Class-I in Mahachara M.V. School, was shown as a student of Class-II of Uttar Rangapani L.P. School purportedly in connivance with the Headmaster of Uttar Rangapani L.P. School.

4. The petitioner contends that there exists materials to show that the son of the Respondent No. 9 was continuing to pursue his studies in Mahachara M.V. school. As such, it is contended that the Respondent No. 9 is not eligible to submit his nomination for the post of President of Uttar Rangapani L.P. School. It is seen that the petitioner, highlighting his grievances, had approached the Director of Elementary Education, Assam, by preferring an appeal on 02.01.2024, however, the same is yet to be given a consideration.

5. In view of the above and there being a requirement to determine as to whether the son of the Respondent No. 9 is a student of Uttar Rangapani L.P. School and/or as alleged by the petitioner, he continues to pursue his studies at Mahachara M.V. School; the Director, Elementary Education, Assam, is now required to take on record the appeal, dated 02.01.2024, as preferred by the petitioner and upon having the allegation as levelled by the petitioner, verified by perusing the contemporaneous records as available in both the schools, dispose of the said appeal by way of a speaking order.

6. The Director, Elementary Education, Assam, shall before disposing of the appeal, dated 02.01.2024, afford an opportunity of hearing to the petitioner, Respondent No. 9 and the Headmasters of both Mahachara M.V. School and Uttar Rangapani L.P. School.

7. The above exercise shall be completed and the speaking order in the matter be issued by the Director, Elementary Education, Assam, within a period of 3(three) months from the date of receipt of a certified copy of this order.

8. It is provided that pending consideration of the appeal as preferred by the petitioner; the Director, Elementary Education, Assam, in the event, the election for selection against the post of President of the School Managing Committee(SMC) of Rangapani L.P. School, has not been concluded; shall authorize a district level official to discharge the duties of the President of the School Managing Committee(SMC) of Uttar Rangapani L.P. School.

9. In the event, the School Managing Committee(SMC) of the said school has been constituted along with a President for the same; such selection of President shall be subject to the speaking order as required to be passed in the matter by the Director, Elementary Education, Assam.

10. The petitioner is required to submit a certified copy of this order along with a copy of the appeal, dated 02.01.2024, to the Director, Elementary Education, Assam, for taking the matter forward.

11. With the above observations and directions, this writ petition stands disposed of at the motion stage itself.

JUDGE

Comparing Assistant