

GAHC010058962024



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

Case No. : WP(C)/1634/2024

NAZMA KHATUN
PRESIDENT, SCHOOL MANAGING COMMITTEE OF GHORIALMARI L.P.
SCHOOL, WIFE OF JAHANUR ISLAM,
R/O VILL- SHOLMARI, P.O. CHIKNI, MOUZA- BAGHBAR P.S. KALGACHIA,
DIST. BARPETA, ASSAM,
PIN- NO. 781321

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM
KAHILIPARA GUWAHATI-19 DIST. KAMRUP (M) ASSAM

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER BARPETA
P.S. AND DIST. BARPETA ASSAM PIN-781301

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
MANDIA EDUCATIONAL BLOCK
P.S. BAGHBAR DIST. BARPETA ASSAM PIN NO. 781308

5:THE HEAD MASTER CUM MEMBER SECRETARY OF GHORIALMARI L.P.
SCHOOL
P.O. SONABARI P.S. KALGACHIA DIST. BARPETA ASSAM PIN-78132

Advocate for the Petitioner : MR. A CHOUDHURY
Advocate for the Respondent : SC, EDU

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 03.05.2024

Heard Mr. A. Choudhury, learned counsel for the petitioner. Also heard Mr. S.M.T. Chistie, learned standing counsel, Department of School Education, appearing on behalf of respondents No. 1, 2, 3 & 4.

2. In view of the order now being passed in the present proceedings, notice upon the respondent No. 5 is not deemed necessary.

3. The petitioner, herein, has presented a challenge to a Notification, dated 30.08.2023, by which the District Elementary Education Officer (DEEO), Barpeta, referring to a communication received from the Secretary to the Government of Assam, Department of School Education, had directed the concerned authorities for re-constitution of the Management Committees of all Government/provincialized Elementary Schools under their respective jurisdiction before completion of the tenure of the existing School Management Committees. The whole process was directed to be completed by September, 2023, so as to facilitate functionalization of the Management Committees by 01.10.2023. Being so aggrieved, the present proceeding has been instituted by the petitioner.

4. As projected in the writ petition, it is seen that the present proceeding was so instituted by the petitioner basing on an apprehension that in terms of the communication, dated 30.08.2023; the Managing Committee with the petitioner

as its President of Ghorialmari Lower Primary School would also be so re-constituted although the said Managing Committee of the school had not completed its prescribed tenure.

5. The School Management and Development Committee (SMDC) of the said school was constituted with the petitioner, herein, as its President, on 22.12.2022. It is contended that thereafter, the said School Management and Development Committee(SMDC) with the petitioner as its President was functioning and the affairs of the said school were being so smoothly conducted.

6. As per the contention of the petitioner, the tenure as prescribed for School Management and Development Committee(SMDC) is 3 years and the term of the petitioner, as its President, would expire only on 21.12.2025.

7. It is also contended by the petitioner in the writ petition that in view of the prescriptions as made in the communication dated 30.08.2023; a move is on to also re-constitute the School Management and Development Committee(SMDC) of the said school and accordingly, being aggrieved; the present proceeding has been initiated.

8. This Court had required the learned Standing Counsel, Elementary Education Department, appearing in the matter, to receive instructions as to whether there is a move to re-constitute the School Management and Development Committee (SMDC) of the said school wherein the petitioner is functioning as its President.

9. In terms of the query raised by this Court; the District Elementary Education Officer(DEEO), vide his communication, dated 30.04.2024, has apprised that the Block Elementary Education Officer(BEEO), Nandia, had submitted a report in the matter to the effect that as per the guidelines, every School Management Committee that is constituted, is to continue for a period of 3 years and the School Management and Development Committee(SMDC) as constituted for Ghoriamari Lower Primary School with the petitioner as its President is yet to complete its tenure of 3 years.

10. It was further brought on record in the said communication, dated 30.04.2024, that there was no initiative taken for re-constitution of the School Management Committee of the said school. The Block Elementary Education Officer (BEEO), Nandia, has further placed on record that there exists nothing adverse against the continuation of the School Management and Development Committee(SMDC) of the said school with the petitioner as its President.

11. In terms of the report of the Block Elementary Education Officer (BEEO), Nandia; the District Elementary Education Officer (DEEO), in his said communication, dated 30.04.2024, has contended that there is no issue regarding continuation of the School Management and Development Committee(SMDC) of the said school till completion of its prescribed tenure.

12. In view of the above position and considering the provisions of Rule 13(1) (i) of the Assam Right of Children to Free and Compulsory Education Rules, 2011, which mandates that a School Management Committee as constituted for

a particular school would be a permanent body of which the President and its members shall have a term of 3 years and in view of the materials brought on record and it being admitted that the tenure of the School Management and Development Committee (SMDC) with the petitioner as its President of the said school, having not completed its term as mandated under the provisions of Rule 13(1)(i) of the Assam Right of Children to Free and Compulsory Education Rules, 2011; this Court holds that the apprehension as raised in the present proceedings is misplaced.

13. Further, the departmental authorities having already brought on record their stand that there is no move to re-constitute the School Management and Development Committee(SMDC) of the said school as well as the fact that there is nothing adverse found against the functioning of the said School Management and Development Committee (SMDC) with the petitioner as its President of the said school, till date, this Court holds that the present writ petition having been filed on the basis of an apprehension which apprehension has been demonstrated to be misplaced on the basis of the stand of the respondent authorities, brought on record; this writ petition is not required to be considered any further and accordingly, the same is disposed of by requiring the respondent authorities to permit the present School Management and Development Committee (SMDC) of Ghorialmari Lower Primary School, to continue to function strictly in accordance with the provisions of the Assam Right of Children to Free and Compulsory Education Rules, 2011, and any action that would become necessary to be taken against the said School Management and Development Committee (SMDC) of Ghorialmari Lower Primary School, in future; if the occasion so arises, shall be so taken strictly in accordance with the

provisions as mandated in this connection under the Assam Right of Children to Free and Compulsory Education Rules, 2011.

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

JUDGE

Comparing Assistant