

GAHC010018582024



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

**Case No. : WP(C)/485/2024**

ABDUL MOTIN  
S/O- LATE JUBER AHMED CHOUDHURY,  
R/O- VILLAGE PACHIM SAMARALI,  
P.O- CHOUDHURY BAZAR,  
P.S- MURAZAR,  
DIST- HOJAI, ASSAM, PIN-782439

VERSUS

THE STATE OF ASSAM AND 5 ORS  
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,  
EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DIRECTOR OF ELEMENTARY EDUCATIONNN  
ASSAM  
KAHILIPARA  
GUWAHATI-19  
DISTRICT- KAMRUP (M)  
ASSAM

3:THE DEPUTY COMMISSIONER  
HOJAI AT SHANKARDEV NAGAR  
ASSAM  
PIN-782442

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
ASSAM  
NAGAON  
IN CHARGE OF HOJAI DISTRICT  
ASSAM  
PIN-782003

5:THE BLOCK ELEMENTARY EDUCATION OFFICER  
LANKA  
DIST- HOJAI  
ASSAM

6:THE HEAD MASTER OF THE SONAI BIBI BALIKA LP SCHOOL  
VILL- PACHIM SAMARALI

P.O- CHOUDHURY BAZAR

P.S- MURAJHAR  
DIST- HOJAI  
ASSAM  
PIN-78243

**Advocate for the Petitioner : F K R AHMED, MR. H THAKURIA**

**Advocate for the Respondent : SC, ELEM. EDU,**

**BEFORE  
HON'BLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**25.09.2024**

Heard Mr. F.K.R. Ahmed, learned counsel for the petitioner and also heard Mr. B. Talukdar, learned standing counsel, Education (Elementary) Department, appearing for respondent Nos.1, 2, 4 and 5 as well as Mr. K.K. Bhattacharyya, learned Government Advocate, appearing for the respondent No.3.

2. In this petition under Article 226 of the Constitution of India, the petitioner, namely, Abdul Motin has prayed for issuing direction to the respondent authorities, more particularly to the respondent No.4, the District Elementary Education Officer, Hojai, Assam, to accord approval to the newly constituted School Managing Committee (SMC) of Sonai Bibi Balika L.P. School, on 17.10.2023, in terms of Rule 13(3)(v) & (vi) of the Assam Right of Child to Free and Compulsory Education Rules, 2011 (hereinafter referred to as the "2011 Rules").

3. The grievance of the petitioner is that when the term of the earlier School Managing Committee of the Sonai Bibi Balika L.P. School was about to complete, then a General Meeting of parents/guardians and other adult members of the village was held on 05.10.2023, for constitution of the new School Managing Committee and the said meeting was conducted adhering to the norms, procedure, practice and statutory Rules and under the supervision of the observer appointed for the purpose and thereafter, 12 members were selected unanimously to constitute a new School Managing Committee. There was, however, no consensus in respect of the selection of President of the School Managing Committee on 05.10.2023. However, a resolution was adopted on that day to held election for the post of President by way of casting vote on 17.10.2023. The present petitioner won the election by defeating his rival candidate, namely, Sajida Begum by a margin of 5 nos. of vote and elected as the President of the newly constituted School Managing Committee of Sonai Bibi Balika L.P. School. This constitution of new Committee was conveyed to the respondent No.4 on 31.10.2023. In terms of the statutory provision, the respondent No.4, the District Elementary Education Officer, Hojai, is bound to grant approval to the newly constituted School Managing Committee within one month from the date of receipt of intimation regarding constitution of the School Managing Committee. Since then, more than 3 months elapsed from the date of receipt of intimation on 31.10.2023 by the respondent No.4. But, till date the same has not been approved. Being aggrieved, the petitioner has approached this Court by filing the present petition with the prayer as aforesaid.

4. Mr. Ahmed, learned counsel for the petitioner submits that Rule 13(3)(v) & (vi) of the 2011 Rules provides for selection/election of the President and Member of School Managing Committee and clause (v) of sub-rule (3) to Rule 13 of the 2011 Rules provides that the District Elementary Education Officer, after examining the resolution, shall approve the name of one of the person as President and the other person as the Vice-President out of the names of two persons selected/elected by the parents/guardians for the purpose and observing all the rules and formalities, the present petitioner was elected in the election held on 17.10.2023 and thereafter, on 31.10.2023 the same was

communicated to the respondent No.4. The respondent No.4, thereafter, conducted an enquiry regarding the election, but till date the same has not been approved, as mandated by clause (vi) of sub-rule (3) of Rule 13 of the 2011 Rules and as such, the right of the petitioner stands violated and therefore, it is contended to issue necessary direction to the respondent authorities, specially respondent No.4 to accord approval to newly constituted School Managing Committee.

5. On the other hand, Mr. Talukdar, learned standing counsel, Education (Elementary) Department submits that though necessary instruction is not available with him in respect of approval of the newly elected Managing Committee, this writ petition may be disposed of by issuing necessary direction to the respondent No.4 to accord approval if not granted earlier in view of the relevant provisions of Rules.

6. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition and the documents placed on record and also perused the relevant Rule, i.e. Rule 13(3)(v) & (vi) of the 2011 Rules, which are extracted herein below:-

**"13(3) Selection/election of the President and Member of SMC:-**

(i) .....

.....

.....

(v) The District Elementary Education Officer, after examining the resolution, shall approve the name of one person as President and the other person as the Vice-President out of the names of two persons selected/elected by the parents/guardians for the purpose, considering the comparative educational qualification, aptitude and willingness to work for the betterment of the school of these two persons, alongwith the name of members as per resolution adopted in the meeting within three days from the date of

**receipt of the resolution and provide a copy of the approval order Form No.IV to the concerned SMC.**

**(vi) The concerned District Elementary Education Officer will ensure receiving of the proposals from SMC and get it approved within a month from the date of intimation given to the SMC concerned for its constitution."**

7. It is not in dispute that new School Managing Committee of Sonai Bibi Balika L.P. School was constituted on 17.10.2023, as per resolution adopted on 05.10.2023, in view of the aforementioned Rules, when the term of the earlier School Managing Committee is about to over. The Twelve-Member Committee was selected unanimously by the parents/guardians and other adult members of the village, under the supervision of the observer appointed for that purpose. It is also not in dispute that there was no consensus in respect of selection of the President, for which as per resolution adopted on 05.10.2023, election was conducted on 17.10.2023 for the post of President by way of casting vote. In the said election, the present petitioner had defeated the rival candidate, namely, Sajida Begum by margin of 5 votes and thereafter, the present petitioner was elected as the President of the newly constituted School Managing Committee of Sonai Bibi Balika L.P. School. It is also not in dispute that the election of the President and selection of the 12 Member Committee was made by adhering to the norms, procedure, practice and statutory rules and also under supervision of the observer appointed for the purpose. It also appears that constitution of the new committee and selection of the President was communicated to the respondent No.4, by the Block Elementary Education Officer, Lanka, Hojai, vide letter dated 31.10.2023, which is annexed with the petition as Annexure-C at page 35 of the petition. Thereafter, on 09.11.2023, the Block Elementary Education Officer, Lanka, Hojai, the respondent No.5 has submitted a report in respect of election of President of the newly constituted School Managing Committee of Sonai Bibi Balika L.P. School on 17.10.2023 along with the proposal of SMC. The letter dated 09.11.2023, of the respondent No.5 also indicates that because of approval of the School Managing Committee being kept on hold, the students are suffering without the School

Managing Committee and therefore, suggested to approve the newly formed committee on 05.10.2023 and 17.10.2023. Thereafter, the Headmaster of Sonai Bibi Balika L.P. School has also submitted one report in respect of holding of the election process on 17.10.2023. Despite, the respondent No.4 is sleeping over the process of approving the new School Managing Committee, though the Rule 13(3)(vi) mandated that within a period of one month of receipt of the proposal, the same has to be approved.

8. Having considered the submission of learned Advocates of both sides and also considering the facts and circumstances on the record and also taking note of relevant provision of the Rule, this Court is inclined to dispose of this writ petition by directing the respondent No.4 to accord approval to the newly constituted School Managing Committee **within a period of one week** from the date of receipt of a certified copy of this order. The petitioner shall obtain a certified copy of this order and shall place the same before the respondent No.4.

9. In terms of above, the writ petition stands disposed of.

*Sd/- Robin Phukan*  
**JUDGE**

**Comparing Assistant**