

GAHC010063532023



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

Case No. : WP(C)/1663/2023

RITA RANI ROY
W/O- SANTANU ROY, R/O- SHYAMANANDA ASHRAM ROAD, DIST.
CACHAR,ASSAM, PIN- 788005.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
SECONDARY EDUCATION DEPARTMENT, DISPUR, GUWAHATI-6.

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

3:THE INSPECTOR OF SCHOOLS
CACHAR
CACHAR DISTRICT CIRCLE
SILCHAR
ASSAM
PIN- 788001.

4:THE NATIONAL COUNCIL FOR TEACHER EDUCATION
THROUGH THE CHAIRPERSON
HANS BHAWAN (WING II)
1 BAHADUR SHAH ZAFAR MARG
NEW DELHI-110002.

5:GEETASHREE DAS
SUBJECT TEACHER OF SWARNA LAKSHMI HIGHER SECONDARY
SCHOOL
NARSHINGPUR

DIST. CACHAR
ASSAM
PIN- 788115.

6:ASSAM UNIVERSITY
REPRESENTED BY ITS REGISTRAR.
SILCHAR-788015

Advocate for the Petitioner : MR. I H SAIKIA, MR. K KALITA, MS L HMAR

Advocate for the Respondent : SC, SEC. EDU., MR. S C KEYAL, SC, ASSAM UNIVERSITY, (R-6), MR. S K DAS (R 5), MR D BARMAN (R 5), MR R KARIM (R 5), SC, N C T E

BEFORE

**HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR
O R D E R**

07.08.2024

Heard Mr. I.H. Saikia, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned Standing Counsel, Secondary Education Department, Government of Assam, for respondent Nos.1, 2 and 3; Mr. I. Alom, learned Standing Counsel, NCTE, for respondent No.4; Mr. S.K. Das, learned counsel for respondent No.5 and Mr. S.C. Keyal, learned Standing Counsel, Assam University, for respondent No.6.

2. The petitioner was appointed as Subject Teacher in Swarna Lakshmi Higher Secondary School, Narsingpur, Cachar after going through a due selection

process by an order dated 07.04.1992. While the petitioner was functioning as such, the Director of Secondary Education, Assam/respondent No.2 issued an order, dated 22.01.2020, allowing the petitioner to hold the charge of Principal-in-Charge of Swarna Lakshmi HS School, Cachar along with financial power to draw and disburse salary, etc.

3. The petitioner developed some medical problems and, accordingly, she made an application to the Inspector of Schools, CDC, Silchar praying for casual leave with Station Leave permission from 03.12.2022 to 07.12.2022 on 30.11.2022. Thereafter, the petitioner proceeded for her treatment at Chennai. However, after reaching Chennai, the petitioner had to stay back due to her treatment and, therefore, the petitioner requested the Inspector of Schools, Cachar over phone for permitting her to take further leave. However, when the petitioner returned back, the Inspector of Schools, CDC, Silchar issued an order on 28.12.2022 withdrawing the financial power as DDO and also ordered to cut her pay for 19 days with effect from 02.12.2022 to 20.12.2022 and further directed suspension of her salary from the month of December, 2022 until further orders.

4. Learned counsel for the petitioner submits that being aggrieved with the order, dated 20.12.2022, the petitioner approached this Court by way of the

present writ petition challenging the said order and this Court, on 23.03.2023, passed an interim order directing that the petitioner shall be paid her salary as per her entitlement for the period 01.12.2022 and from 21.12.2022 onwards after joining in service in the said School as Subject Teacher.

5. It is submitted that the order, dated 20.12.2022, issued by the Inspector of Schools, CDC, Silchar is without jurisdiction inasmuch as the Inspector of Schools, CDC, Silchar does not have the authority to cut salary of the petitioner as well as to suspend her salary from December, 2022 inasmuch as the appointing authority of the petitioner is the Director of Secondary Education/respondent No.2.

Learned counsel for the petitioner further submits that the order, dated 20.12.2022, is punitive in nature and the same is also not sustainable in law inasmuch as the said order has been passed without initiating any Departmental Proceeding against the petitioner.

6. Mr. Kaushik, learned Standing Counsel, Secondary Education Department, submits that the order dated, 20.12.2022, was issued by the Inspector of Schools to mitigate the situation in the said Swarna lakshmi HS School inasmuch as the petitioner was absent from duty without taking leave.

7. After hearing learned counsel for the parties and on consideration of the

order, dated 20.12.2022, this Court is of the considered opinion that Inspector of Schools, CDC, Silchar had exceeded its jurisdiction while passing the impugned order inasmuch as the appointing authority of the petitioner is the Director of Secondary Education, Assam. Further, it appears that no Departmental Proceeding was initiated against the petitioner and, therefore, the order of pay cut for 19 days with effect from 02.12.2022 to 20.12.2022 is also *prima facie* illegal in the eyes of law. This Court has noticed that the petitioner made her application for casual leave on 30.11.2022 before the Inspector of Schools, CDC, Silchar. However, before her leave was granted, the petitioner proceeded for her treatment to Chennai on 02.12.2022. Under the circumstances, the petitioner could have waited for the competent authority to grant her leave. However, without doing so, the petitioner proceeded for her treatment.

8. Be that as it may, as this Court has already come to the finding that the order, dated 20.12.2022, issued by the Inspector of Schools, CDC, Silchar was without jurisdiction, the order, dated 20.12.2022, is, accordingly, set aside and quashed in so far as it relates to the order for cutting her pay for 19 days with effect from 02.12.2022 to 20.12.2022 and also suspending her salary from the month of December, 2022 until further orders.

9. The petitioner is directed to make a representation before the Director of Secondary Education, Assam/respondent No.2 for regularizing her period of absence with effect from 02.12.2022 to 20.12.2022 within a period of two weeks from today. Thereafter, the respondent No.2 shall consider the representation made by the petitioner in accordance with law and pass appropriate order(s) by taking into consideration the medical condition of the petitioner. Let such consideration be made within a period of one month from the date of receipt of the representation to be made by the petitioner.

10. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant