

GAHC010065622024



2024:GAU-AS:11548

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

Case No. : WP(C)/1871/2024

CHABIRAN NESSA AND 8 ORS
W/O- MD. ABUL HUSSAIN,
VILLAGE- BANDIA,
P.O. AND P.S.- MANGALDAI,
DISTRICT- DARRANG, ASSAM.

2: AKBAR ALI
S/O- MAHAMMAD ALI

VILLAGE- BANDIA

P.O. AND P.S.- MANGALDAI

DISTRICT- DARRANG
ASSAM

3: NUREDA BEGUM
W/O- MD. JAVED ALI

VILLAGE- BAGHPARI

P.O. AND P.S. - MANGALDAI

DISTRICT- DARRANG
ASSAM

4: MANIKJAN @ MANIKJAN BEGUM
W/O- ABDUL RASID

VILLAGE- BAGHPARI

P.O. AND P.S. - MANGALDAI

DISTRICT- DARRANG
ASSAM

5: MAMTA BEGUM
W/O.- MD. AKBAR ALI

VILLAGE- BAGHPARI

P.O. AND P.S. - MANGALDAI

DISTRICT- DARRANG
ASSAM

6: MD. ABDUL SAMAD
S/O- LATE IJJAT ALI PARAMANIK

VILLAGE- BANDIA

P.O. AND P.S. - MANGALDAI

DISTRICT- DARRANG
ASSAM

7: TAZIZUL HOQUE
S/O- MD. SUKUR ALI

VILLAGE- BAGHPARI

P.O. AND P.S. - MANGALDAI

DISTRICT- DARRANG
ASSAM

8: SOIDUR RAHMAN
S/O- LATE HAZRAT ALI

VILLAGE- BAGHPARI

P.O. AND P.S. - MANGALDAI

DISTRICT- DARRANG
ASSAM

9: JAMALUDDIN AHMED
S/O- AHAD ALI

VILLAGE- BANDIA

P.O. AND P.S. - MANGALDAI

DISTRICT- DARRANG
ASSA

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY),
DISPUR, GUWAHATI- 781006.

2:THE DISTRICT COMMISSIONER
DARRANG
P.O. AND P.S.- MANGALDOI
DISTRICT- DARRANG
ASSAM
PIN- 784125.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DARRANG
P.O. - MANGALDOI
DISTRICT- DARRANG
ASSAM
PIN- 784125.

4:THE DEPUTY INSPECTOR OF SCHOOLS
DARRANG
P.O. AND P.S.- MANGALDOI
DISTRICT- DARRANG
ASSAM
PIN- 784125.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
KALAIGAON EDUCATION BLOCK
P.O.- KALAIGAON
DISTRICT- DARRANG
ASSAM
PIN- 784525.

6:THE HEADMASTER
BANDIA CHAPARI L.P. SCHOOL

VILLAGE- BANDIA
P.O.- MANGALDAI
DISTRICT- DARRANG
ASSAM
PIN- 784125.

7:MD. LUTFUR RAHMAN
S/O- LATE JAFAR ALI
VILLAGE- BANDIA
P.O.- MANGALDAI
DISTRICT- DARRANG
ASSAM
PIN- 784125

Advocate for the Petitioner : MR. D A KAIYUM, MR. M S MONDAL

Advocate for the Respondent : SC, ELEM. EDU, MR A ALIM SK(R-6),A. K. KANU (R-7),MR M AHMED (R-7),FOR CAVEATOR,MR B BURAGOHAIN,GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

O R D E R

25.11.2024

Heard Mr. D.A. Kaiyum, learned counsel for the petitioners. Also heard Mr. N.J. Khataniar, learned Standing Counsel, Elementary Education Department, for the respondent Nos. 1, 3, 4 and 5, Mr. P. Saikia, learned Government Advocate, Assam for the respondent No.2 and Mr. M. Ahmed, learned counsel for the respondent No.7.

2. The petitioners before this Court are the members of the School Management Committee of Bandia Chapari L.P. School.

3. The School Management Committee of Bandia Chapari L.P. School was given approval by the District Elementary Education Officer, Darrang by a communication dated 27.06.2022 with the respondent No.7/ Lutfur

Rahman as the President and one Sabiran Nessa/petitioner No.1 as the Vice President. In the meantime, the respondent No.7/President of the School Management Committee tendered his resignation before the Block Elementary Education Officer, Kalaigaon Educational Block, Chapai, Mangaldai by a letter dated 07.08.2023. The Block Elementary Education Officer, Kalaigaon Educational Block, accordingly forwarded the resignation letter of the respondent No.7 to the District Elementary Education Officer, Darrang by communication dated 08.08.2023. Thereafter, the District Commissioner, Darrang, Mangaldai, entrusted one Smti Semina Yesmin Ara Rahman, AES, to enquire into the matter. Accordingly, after receiving the enquiry report, wherein it was stated that the son of the respondent No.7 namely, Md. Mahir is found in the school Register at Serial No.47, but his son has not attended school since 21.06.2022 and as per the guidelines issued by the Department of School Education, Assam dated 03.08.2023, the President and Vice President shall be selected/elected from the parents/ guardians member only and one of them must be a woman, came to the finding by order dated 27.02.2024 that the respondent No.7 is ineligible to act as the President of Bandia Chapari L.P. School. By the same order, the petitioner No.1 was allowed to act as the President of the Bandia Chapari L.P. School until further orders.

4. The respondent No.7 produced a Deed of declaration, which was executed on 08.06.2022, wherein it was declared that the respondent No.7 is the paternal uncle of one Meherun Begum, who is a student of Bandia Chapari L.P. School in Class-III. Accordingly, the District Commissioner, Darrang, Mangaldai, by another office order dated 04.03.2024, permitted the respondent No.7 to act as the President of

Bandia Chapari L.P. School. Thereafter, nine members of the School Management Committee of the Bandia Chapari L.P. School issued a No Confidence Motion against the respondent No.7 by a show cause notice dated 12.03.2024 and addressed to the President of the said school/respondent No.7. However, as no steps were taken for convening the meeting with regard to the No Confidence Motion moved against the respondent No.7, the petitioners have approached this Court by way of the present writ petition.

5. This Court, while issuing notice on 04.04.2024, provided that till the meeting that is to be convened on 29.04.2024 is held, the respondent No.7 was restrained from functioning as the President of the School Management Committee of the Bandia Chapari L.P. School and the functions of the post of President of the said School Management Committee shall be held by a departmental officer to be nominated for the purpose by the District Elementary Education Officer, Darrang.

6. It is the case of the petitioners that the Department of Elementary Education, Government of Assam has issued Guidelines by Notification dated 03.08.2011, wherein Clause-13(II)(B), provides that the President and Vice President shall be selected/elected from the parents/guardians members only and one of them must be a woman. The petitioners, therefore, allege that as the respondent No.7 is neither a parent nor a guardian in the said said Bandia Chapari L.P. School, he is not entitled to hold the post of the President of the School Management Committee of the Bandia Chapari L.P. School.

7. After hearing the learned counsel for the parties and considering that there is a disputed question of facts involved in the present writ petition,

this Court remands the matter back to the District Commissioner, Darrang, Mangaldai to reconsider the matter with regard to the eligibility of the respondent No.7 to hold the post of President of the School Management Committee of the said Bandia Chapari L.P. School. While considering the matter, the District Commissioner, Darrang, Mangaldai shall provide an opportunity of hearing to both the respondent No.7 as well as the petitioners herein and thereafter take a final decision with regard to the person, who is eligible to hold the post of the President of the School Management Committee of Bandia Chapari L.P. School.

8. It is made clear that this Court has given no opinion on the merits of the present writ petition. It is also made clear that the order dated 04.04.2024 passed by this Court shall continue to remain in force till the District Commissioner, Darrang, Mangaldai comes to a final decision and pass necessary orders.

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

JUDGE

Comparing Assistant