

GAHC010009082026



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

Case No. : WP(C)/343/2026

MD SURUJ ALI
S/O-LT. JAINAL ABDIN R/O- VILL AND P.O.-SILBORI P.S- DALGAON DIST-
DARRANG, ASSAM.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR, GHY-6.

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

3:THE MISSION DIRECTOR
SAMAGRA SHIKSHA ASSAM (SSA)
KAHILIPARA
GUWAHATI-19

4:THE DISTRICT MISSION CO-COORDINATOR SSA
DARRANG
BHEBARGHAT
MANGADAI
P.O.-MANGALDAI
DIST- DARRANG
ASSAM
PIN- 784125.

5:THE DISTRICT COMMISSIONER
DARRANG AT MANGALDAI
P.O.- MANGALDAI
DIST- DARRANG

ASSAM
PIN-784125.

6:THE ADDITIONAL DISTRICT COMMISSIONER(EDUCATION)
DARRANG AT MANGALDAI
P.O.- MANGALDAI
DISTRICT- DARRANG
ASSAM
PIN- 784125.

7:DISTRICT ELEMENTARY EDUCATION OFFICER (DEEO)

DARRANG
JAYNAGAR PATH
MANGALDAI
KAMAR PARA P.O.- MANGALDAI
DISTRICT- DARRANG
ASSAM
PIN- 784125

8:MD OWAZ UDDIN AHMED
S/O- LT. AHER MAMUD
R/O-NO. 4 BARUAJHAR
P.O.- BECHIMARI P.S- DALGAON DIST- DARRANG
ASSAM

Advocate for the Petitioner : MR M AHMED, N. CHOUDHURY,MR A. ALI,A. K. KANU

Advocate for the Respondent : GA, ASSAM, SC, ELEM. EDU,SC, SSA

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER

18/02/2026

Heard Mr. M Ahmed, learned counsel for the petitioner. Also heard Ms. S Chetia, learned Standing counsel, Elementary Education Department, appearing for the respondent Nos. 1, 2 & 7; Mr. B Gogoi, learned Standing counsel, SSA, Assam, appearing for the respondent Nos. 3 & 4 and Ms. K Phukan, learned Government Advocate, Assam, appearing for the respondent Nos. 5 & 6.

2. In view of the directions being passed vide the present order, service of notice upon the respondent No. 8 is deemed to be not necessary.

3. The petitioner in the present proceeding has assailed an order of transfer dated 05.01.2026, issued by the District Commissioner, Darrang, Mangaldai, transferring the petitioner from No. 3 Kachari Vetitop L.P. School to No. 4 Baruajhar Dakhin Chuba L.P. School.

4. The petitioner has projected in the writ petition that the order of transfer dated 05.01.2026 has been issued without jurisdiction by the District Commissioner, Darrang, Mangaldai.

5. It is submitted that the transfer of teachers of Elementary and Secondary Schools is presently regulated by the Assam Elementary and Secondary School Teachers (Regulation of Posting and Transfer) Act, 2020.

6. It is submitted that the provisions of the said Act of 2020 do not empower the jurisdictional District Commissioner to issue orders, transferring the teachers working in schools within the area falling under his jurisdiction. It is submitted that the order having been passed without jurisdiction, the same would mandate an interference from this Court.

7. The learned counsel for the petitioner has reiterated the said facts and has submitted that the order dated 05.01.2026 having been passed by the District Commissioner, Darrang,

Mangaldai without jurisdiction, the same is null and void and the direction passed therein to the petitioner would not mandate compliance by him.

8. Ms. S Chetia, learned Standing counsel, Elementary Education Department, on instructions, has submitted that the power to issue orders for transfer and posting of the teachers working in the Elementary and Secondary Schools is vested in the departmental authorities, including the District authorities of the said departments. She has not seriously objected to the contention raised by the petitioner with regard to the jurisdiction of the District Commissioner to pass the impugned order of transfer.

9. I have heard the learned counsels for the parties and also perused the materials available on record.

10. The Act of 2020 admittedly does not empower the District Commissioner to issue orders of transfer in respect of teachers working in schools situated within the area under his jurisdiction. The District Commissioner in the event of finding any necessity for transferring a teacher so working in a school within the area under his jurisdiction can make a recommendation with regard to the same to the competent authority of the department either at the Directorate level and/or at the District level.

11. The jurisdictional District Commissioner, in the considered view of this Court would not have a jurisdiction to transfer any teacher from any school to another school situated within the area falling under his jurisdiction.

12. In view of the above, the impugned order of transfer dated 05.01.2026, insofar as it concerns the petitioner, herein, stands set aside.

13. The respondents have brought on record materials which reveal that there are serious allegations with regard to the conduct of the petitioner as the Head Teacher of the school in question, more particularly, with regard to the manner in which the students are being provided meals under the Mid-Day Meal Scheme.

14. This Court having only interfered with the impugned order of transfer dated 05.01.2026 on the ground that the same was issued by the jurisdictional District

Commissioner without jurisdiction, such interference would not restrain the respondent authorities either to issue a fresh order of transfer by considering the necessity for the same and/or to institute appropriate disciplinary proceedings against the petitioner and for that purpose to place the petitioner under of suspension.

15. With the above observation and directions, the present writ petition stands disposed of.

JUDGE

Comparing Assistant