

GAHC010080822023



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

Case No. : PIL/30/2023

WE FOR GUWAHATI FOUNDATION AND 2 ORS.
REPRESENTED BY ITS MANAGING TRUSTEE AND PRESIDENT, ANITA
VERMA, PRESENTLY AT 23, PRATIKSHA, KHARGULI, RIVERSIDE,
GUWAHATI-781004.

2: ANITA VERMA
D/O- SHRI BALKRISHAN VERMA
R/O- 23
PRATIKSHA
KHARGULI
RIVERSIDE
GUWAHATI-781004.

3: DEBARGHA ROY
S/O- DEBOJIT ROY
R/O- 43 LAMB ROAD
LATASIL
GUWAHATI-781001

VERSUS

THE STATE OF ASSAM AND 23 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, PIN- 781005, ASSAM

2:THE COMMISSONER AND SECRETARY
TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPARTMENT
BLOCK-C (GROUND FLOOR)
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006.

3:THE SECRETARY TO THE GOVT. OF ASSAM

ELEMENTARY EDUCATION DEPARTMENT
BLOCK-C (GROUND FLOOR)
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006.

4:THE DIRECTOR OF ELEMENTARY EDUCATION
DIRECTORATE OF ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI-781019.

5:THE DIRECTOR OF SECONDARY EDUCATION
DIRECTORATE OF SECONDARY EDUCATION
KAHILIPARA
GUWAHATI-781019.

6:MISSION DIRECTOR

SAMAGRA SIKSHA ABHIYAN
ASSAM
KAHILIPARA
GUWAHATI-781019.

7:DISTRICT ELEMENTARY EDUCATION OFFICER
AND INSPECTOR OF SCHOOLS (KAMRUP METRO)
ATHGAON
GUWAHATI-781001.

8:DISTRICT ELEMENATRY EDUCATION OFFICER
AND INSPECTOR OF SCHOOLS (KAMRUP RURAL)
AMINGAON
GUWAHATI-781031.

9:DISTRICT ELEMENATRY EDUCATION OFFICER
AND INSPECTOR OF SCHOOLS (NAGAON)
PANIGAON
NAGAON
NH-37
NAGAON-782001.

10:GYAN VIKAS ENGLISH SCHOOL
FAYAL AHMED ROAD
FATASIL
AMBARI
GUWAHATI-781001.

11:SOUTH POINT SCHOOL

BARSAPARA INDUSTRIAL ROAD
GOPINATH NAGAR
BARSAPARA
GUWAHATI-781018.

12:SANKARDEV SIKHU NIKETAN
SILSAKOO
NORTH GUWAHATI
GUWAHATI-781030.

13:KENDRIYA VIDYALAYA IIT
GUWAHATI IIT CAMPUS
GUWAHATI-781039.

14:KENDRIYA VIDYALAYA
MALIGAON
NE FRONTIER RAILWAY
ADARSHA COLONY
MALIGAON
GUWAHATI-781011.

15:AKHOM SHIKSHALAYA SCHOOL
RADHA KRISHNA NAGAR
SALBARI
NOONMATI
GUWAHATI-781020.

16:GYAN EDUCATIONAL TRUST
OPP. KALI MANDIR
LOKHRA ROAD
JYOTIKUCHI
GUWAHATI-781034.

17:SKYLARK PUBLIC SCHOOL
5P42 AND RGF
MALIGAON WEST
MALIGAON
GUWAHATI-781010.

18:SWARNA HAZARIKA MEMORIAL FLORENCE ACADEMY
VILL AND P.O. SAMUGURI
NEAR SAMUGURI POST OFFICE- 782140
NAGAON.

19:SANKARDEV SIKHU NIKETAN
NEAR BORMA MEDICAL STORES
VILL AND P.O. SAMUGURI- 782140
NAGAON.

20:SARASWATI JATIYA VIDYALAYA
NEAR ROCKLAND PARK
P.O. SAMUGURI-782140
NAGAON.

21:PANCHATIRTHA SISHU SANKARDEV VIDYA NIKETAN
HAJO SHAKTI BARI-781102
KAMRUP RURAL.

22:HARVARD PUBLIC SCHOOL
GUWAHATI HAJO ROAD
AMINGAON
GUWAHATI-781104.

23:LUIT VIEW ENGLISH ACADEMY
SH2
DOLIBARI
SARMOSALI GAIN- DADRA-781104
ASSAM

24:KENDRIYA VIDYALAYA
SECTOR-1
RAMCHAI HILLS
NOONMATI
GUWAHATI-781020

Advocate for the Petitioner : MS. D GHOSH

Advocate for the Respondent : GA, ASSAM

BEFORE

**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

O R D E R

02.04.2024

(M.R. Pathak, J)

Heard Ms. D. Ghosh, learned counsel appearing for the petitioners and Mr. R. Mazumdar, learned Standing Counsel for the Department of School Education, Government of Assam. Also heard Mr. A. Chamuah,

learned counsel for the respondent No. 12; Mr. R. Chauhan, learned counsel for the respondent Nos. 13, 14 and 20; Mr. A. Kashyap, learned counsel for the respondent No.1; Mr. R. Sarma, learned counsel for the respondent No.17 and Mr. W. Ahmed, learned counsel for the respondent No.19.

2. Chapter-IV of the Right of Children to Free and Compulsory Education Act, 2009 (in short 2009 Act) consisting Sections 12 to 28 relates to "Responsibility of Schools and Teachers". Section 12 of said 2009 Act provides for Extent of Schools Responsibility for Free and Compulsory Education. Section 12(1)(c) of 2009 Act stipulates as follows:-

"Specified in sub-clauses (iii) and (iv) of clause (n) of Section 2 shall admit in Class I, to the extent of at least twenty-five percent of the strength of that class, children belonging to weaker section and disadvantaged group in the neighborhood and provide free and compulsory elementary education till its completion:

Provided further that where a school specified in clause (n) of Section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education."

3. Section 2 of the 2009 Act, noted above, relates to Definitions, where Section 2(n) reads as follows:-

"(n) "School" means any recognized school imparting elementary education and includes –

(i) a school established, owned or controlled by the appropriate Government or a local authority;

(ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

(iii) a school belonging to specified category; and

(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority."

4. Section 12(1)(c) of 2009 Act specifically provides for admissions in

Class-I whereas the proviso to said section provides for the admission to Pre-school classes to categories of students specified in that section in those schools concerned wherever such classes are available. Section 12(1)(c) as well as its proviso also clarifies that once an admission is made either in Class-I or in Pre-primary classes, where available, the students under that category should be provided with free and compulsory elementary education till its completion, i.e., up to Class-VIII as per the said 2009 Act.

5. The State Government in its Office Memorandum No.PMA.73/2021/47 dated 02.09.2021 that relates to Guidelines for implementation of Section 12(1)(c) under the Right of Children to Free and Compulsory Education Act, 2009 in the State of Assam at its Part-D "Monitoring and Grievance Redressal" in Clause-2 specifically provided that- if any irregularities are noticed during the process of admissions and imparting education, the parents may intimate the respective Block Elementary Education Officer in writing.

6. Mr. R. Mazumdar, learned Standing Counsel for the Department of School Education on instruction submits that during the admission period of 2023-24 in elementary schools relating to Class-I or Pre-primary classes, the Elementary Education Department did not receive any such objections from the concerned Block Elementary Education Officers with regard to rejection of admissions to Class-I to the categories of children specified in Section 12(1)(c) of said 2009 Act.

7. Mr. R. Mazumdar, learned Standing Counsel for the Department of School Education also submits that the admissions of Class-I or the Pre-primary classes in such un-aided non minority schools are still going on

and yet to be over. On instruction from the Secretary, Government of Assam in the Department of School Education dated 01.04.2024 pertaining to this PIL, Mr. R. Mazumdar, learned counsel submits that today a virtual meeting has been scheduled with all the Inspectors of Schools and the District Elementary Education Officers for an elaborate discussion to ensure of submission of comprehensive report regarding the admissions as provided under Sections 12(1)(c) of the said 2009 Act.

8. Mr. R. Mazumdar, learned Standing Counsel for the Department of School Education further submits that a dedicated portal in the Department of School Education for effective implementation of the provisions of Section 12(1)(c) of the said 2009 Act has been made ready and that such portal will come into effect after the ensuing Parliamentary Election gets over as per the decision of the Cabinet, as presently the Model Code of Conduct due to election is in force.

9. Mr. R. Mazumdar, learned Standing Counsel for the Department of School Education also placed a communication of the Director of Elementary Education, Assam, whereby the District Elementary Education Officers, the District Primary Education Officers have been asked to fill up the specified format with regard to admissions of the students under the category of Section 12(1)(c) of the 2009 Act that was communicated to all the concerned authorities on 07.02.2024 itself and that the report from such authorities is awaited.

10. Considering that the admissions in some of the un-aided non-minority schools are still pending, list this matter again on **09.05.2024**, enabling the authorities in the School Education Department of the State to place the up-to-date status regarding the admissions of students in

such un-aided and non-minority schools in the State of Assam as prescribed in Section 12(1)(c) of the 2009 Act.

11. List accordingly.

JUDGE

JUDGE

Comparing Assistant