

GAHC010100352022



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

Case No. : WP(C)/3521/2022

MD.AZIZUL HOQUE
HEAD TEACHER, DAKHIN KADAMONI PATHER VLP SCHOOL, VILL.
KADAMONI PATHER, P.S. BATADRAVA, DIST.- NAGAON, ASSAM. PIN-
782123.

VERSUS

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

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

3:THE MISSION DIRECTOR SSA
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE DEPUTY COMMISSIONER
NAGAON
P.O.
P.S. AND DIST.- NAGAON
ASSAM.

5:DISTRICT MISSION CO-ORDINATOR-CUM-DISTRICT ELEMENTARY
EDUCATION OFFICER
NAGAON
P.O.

P.S. AND DIST.- NAGAON
ASSAM.

6:THE SUB-INSPECTOR (S.I.) OF SCHOOLS
BATADRAVA CIRCLE
DIST.- NAGAON
ASSAM

Advocate for the Petitioner : MR. Z HAMMAD

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

07.11.2023

Heard Mr. Z. Hammad, learned counsel for the petitioner and Mr. N.J. Khataniar, learned Standing Counsel, Elementary Education Department representing the respondent nos. 1, 2 & 6 as well as Mr. B. Choudhury, learned Standing Counsel, SSA representing the respondent nos. 3 & 5 and Mr. G. Pegu, learned Government Advocate representing the respondent no. 4.

2. The learned counsel for the petitioner has submitted that as per inspection carried out on 05.05.2017, the Inspector of Schools has found the School as 40 x 16 with Bamboo pillars and kaccha house and the enrolment of boys and girls in various classes was found as follows:

Class.I-22/15

Class.II-19/22

Class.III-21/10

Class.IV-20/18

Class.V-13/10

3. The said Inspection Report is to be believed, about 150 students of five

classes are accommodated in the Kaccha house measuring 15 ft. x 16 ft. with Bamboo pillars. Therefore, the Director of Elementary Education Department shall depute the Officers of a rank higher than the Inspector of Schools to carry out the inspection of Dakhin Kadamoni Pather L.P. School and take an appropriate decision on the claim of the petitioner for provincialization.

4. The learned counsel for the petitioner has submitted that there was a dispute with regard to the genuinity of the School of the petitioner with another School of the same name. However, pursuant to a direction contained in the order dated 21.09.2015, passed by this Court in WP(C)/5638/2014, the Additional Deputy Commissioner (Edn.) cum Chairperson, DLRC, Nagaon has passed a Speaking Order dated 19.08.2016, recognizing the School of the petitioner to be the genuine one. It is submitted that owing to the dispute involving two Schools of same name, the data of the school of the petitioner could not be uploaded and captured in the DICE Code. It is submitted that because of the non-capturing of the data in the DICE Code, the same has resulted in rejection of the claim of the School of the petitioner for provincialization by a Speaking Order dated 28.04.2022 passed by the Director of Elementary Education, Assam.

5. In this case, notice of motion was issued on 30.05.2022, but the Education Department has not filed their response. Under such circumstances, the Court is compelled to pass the order, as indicated above, so as to enable the Director of Elementary Education, Assam to conduct an enquiry with regard to the enrollment and condition of the School of the petitioner so as to communicate the same to the Court.

6. The petitioner shall produce a certified copy of this order before the Director of Elementary Education, Assam so as to enable the State authorities to

take appropriate steps.

7. The legality of the order dated 28.04.2022 would be subject to the further orders that may be passed in this writ petition.

8. List this case on 15.12.2023.

JUDGE

Comparing Assistant