

GAHC010101182024



2026:GAU-AS:2523

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

Case No. : WP(C)/2706/2024

LAKSHMAN CHANDRA DAS
S/O- LATE HARI CHARAN DAS, HEAD TEACHER, 1372 NO. HARINAGAR
NETAJI L.P. SCHOOL, IRONGMARA, R/O- VILL.- BARJALENGA PART-I, P.O.
BARJALENGA, DIST. CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, DEPARTMENT OF
SCHOOL EDUCATION, (ELEMENTARY EDUCATION), DISPUR, GUWAHATI,
ASSAM, PIN- 781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
ASSAM
PIN- 781019.

3:THE DISTRICT COMMISSIONER
CACHAR
SILCHAR
ASSAM
PIN- 788001.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DMC
UNDER SSA
AXOM
DIST. CACHAR
SILCHAR
ASSAM

PIN- 788003.

5:THE DEPUTY INSPECTOR OF SCHOOLS
SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
NARSINGPUR EDUCATION BLOCK
DIST. CACHAR
ASSA

Advocate for the Petitioner : MR. B PURKAYASTHA,

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

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

17/02/2026

Heard Mr. B Purkayastha, learned counsel for the petitioner. Also heard Mr. A Phukan, learned Standing counsel, Elementary Education Department, appearing for the respondent Nos. 1, 2, 4, 5 & 6 and Ms. K Phukan, learned Government Advocate, Assam, appearing for the respondent No. 3.

2. The petitioner by way of instituting the present writ petition has assailed a report prepared by the District Commissioner, Cachar after a visit was made to the school, wherein, the petitioner was functioning as its Headmaster. The petitioner has also assailed the requirement made in the report for issuance of show cause notice to him for being absent during school hours and also for effecting salary cut for 1 (one) day. The petitioner has also assailed the deduction of salary for 1 (one) day from his salaries for the month of February, 2024.

3. As projected in the writ petition, the petitioner was allowed to function as the Head Teacher of 1372 No. Harinagar Netaji L.P. School. On 14.02.2024, Saraswati Puja was celebrated in the school. The petitioner projects that after the completion of the Puja on 14.02.2024, on 15.02.2024, he was involved with the cleaning activities of the school and also with the returning of the utensils, chairs, tables, etc. as brought for the purpose of conducting the Puja on 14.02.2024. The petitioner further projects that he was appointed as a Booth Level Officer (BLO) by the Election Branch and was also required to carry out duties in this connection. It is projected that in connection with his activities as Booth Level Officer, a meeting was convened on 15.02.2024 for constituting a Booth Level Committee for creating voter awareness. The petitioner, being the Booth Level Officer, was required to organise and conduct the meeting on 15.02.2024. Accordingly, the petitioner on the said date proceeded to attend the said meeting after suspending the school before the completion of the school hours.

It is also projected that on the said date, the mid-day meal was not prepared in the school as the students of the school were invited for meal in a nearby club. However, on the said date, the District Commissioner, Cachar made a surprise visit to various schools in the area under his jurisdiction, including the school, wherein, the petitioner was serving. On the said date of inspection, it was found that the petitioner was absent in the school without prior information and also after suspending the school before its scheduled hour of closure. Accordingly, the District Commissioner, Cachar, Silchar submitted a report dated 19.02.2024 and therein, required institution of proceedings against the petitioner for pre-mature suspension of the school on 15.02.2024 as well as for effecting pay cut for 1 (one) day for his such absence. The said prescription was made in respect of all the teachers, who were not present in the school at the time of inspection.

In terms of the report submitted by the District Commissioner, Cachar dated 19.02.2024, the District Elementary Education Officer, Cachar, Silchar issued a show cause notice to the petitioner, requiring him to explain with regard to his absence from the school on 15.02.2024 during the inspection of the school by the jurisdictional District Commissioner. Similar notice was also issued to the petitioner by the jurisdictional Block Elementary

Education Officer. The petitioner responded to the said notices vide his communications, both dated 23.02.2024 and therein, justified his absence by contending that the students desired not to pursue their studies on the said date, which was also supported by their parents. Further, it was projected that he also being appointed as a Booth Level Officer, he was required by the authorities to organize a meeting for constitution of a committee for creating voter awareness. Accordingly, it is projected that for the assigned reasons, the petitioner was not present in the school when the inspection was so carried out.

It is seen that after the receipt of the replies from the petitioner to the notices issued to him, the salary of the petitioner for the month of February, 2024 was deducted to the extent of 1 (one) day's salary. However, it is seen that no departmental proceeding has been instituted against the petitioner till date for the allegation of having prematurely suspended the school on 15.02.2024 before completion of the school hours.

Being aggrieved, the petitioner has instituted the present proceeding.

4. Mr. B Purkayastha, learned counsel for the petitioner by reiterating the facts, noticed hereinabove, has submitted that the jurisdictional District Commissioner, while submitting his report in the matter, had not taken into consideration the fact that the District authorities had required the petitioner to constitute a committee for Booth Awareness and to hold a meeting on 15.02.2024 for the purpose. He submits that the students having expressed their desire for not pursuing their classes after carrying out cleaning activities pursuant to holding of Saraswati Puja celebration in their school, the petitioner after being present in the school on the said day had left the school only after the students had left the premises of the school. He further submitted that the respondent authorities in the background facts as involved ought not to have proceeded to effect pay cut from the salaries of the petitioner for the month of February, 2024. He submits that the pay cut effected in respect of the petitioner would have the effect of ensuing a break in service, insofar as, the petitioner is concerned. He submits that the respondent authorities, although, had proposed to institute departmental proceedings against him, no such proceeding being so instituted, reveals that the clarification set out by the petitioner in his replies to the notices issued to him were accepted by the competent authorities.

In the above premises, Mr. Purkayastha, learned counsel for the petitioner prays that the pay cut from his salaries for the month of February, 2024 be interfered with, with further direction to the respondent authorities to reauthorize to the petitioner the amount so deducted from his salaries for the month of February, 2024.

5. Per contra, Mr. A Phukan, learned Standing counsel, Elementary Education Department has submitted that the report of the jurisdictional District Commissioner, which had revealed the absence of the petitioner from school on 15.02.2024 as well as suspension of the school prior to the time of closure of the school, having come on record the departmental authorities had issued a letter requiring the petitioner to explain as to why disciplinary proceeding against him should not be instituted in the matter. He further submits that the petitioner has submitted his replies to the said show cause notice and the clarifications as setout therein, also reveals that the petitioner admittedly was absent from the school on the said day without prior information. Accordingly, he submits that the pay cut in respect of the petitioner from his salary for the month of February, 2024 would not mandate an interference by this Court.

6. Ms. K Phukan, learned Government Advocate submits that the plea taken by the petitioner towards justifying his absence from school on 15.02.2024 would not mandate a consideration, inasmuch as, such pleas are so taken by referring to the engagement of the petitioner as a Booth Level Officer.

Ms. Phukan, learned Government Advocate submits that the jurisdictional District Commissioner vide an order dated 11.09.2023 had clearly stipulated that teachers engaged as Booth Level Officers were required to be present in their respective schools and the works related to Booth Level Officer was required to be performed beyond school hours. She submits that the absence of the petitioner on 15.02.2024, being for election related activities, the same having so occasioned during the school hours, the order dated 11.09.2023 would go to reveal that the petitioner has committed a misconduct in the matter. She further submits that the report as submitted by the jurisdictional District Commissioner was considered by the authorities of the Elementary Education Department and the pay was directed to be deducted for 1 (one) day from the salaries of the petitioner for the month of

February, 2024. Accordingly, she prays that the deduction so made would not mandate an interference from this Court.

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

8. The facts noticed hereinabove, more particularly, with regard to the service rendered by the petitioner are not disputed.

9. The petitioner on 15.02.2024 is found to have convened a meeting for constitution of the Booth Level Committee for creating voter awareness. It is during the time when the petitioner was involved in the conduct of said meeting that the Deputy Commissioner had carried out a surprise inspection in his school. During such inspection, it was found that the petitioner as the Head Teacher of 1372 No. Harinagar Netaji L.P. School, on 15.02.2024, without an authority being granted to him in this connection, had proceeded to suspend the school well before the scheduled time of closure of the school and after suspending the school, the petitioner had proceeded to attend the said meeting.

10. It is emphatically submitted by Mr. B Purkayastha, learned counsel for the petitioner that there being a justifiable reason advanced by the petitioner for his absence from school on 15.02.2024, when an inspection was carried out by the jurisdictional District Commissioner, the respondent authorities ought not to have effected pay cut from the salaries of the petitioner for the month of February, 2024. He submits that the respondent authorities without carrying out a full-fledged enquiry, complying with the provisions of Rule 9 of the Assam Service (Discipline and Appeal) Rules, 1964, no adverse order, including an order of pay cut could have been issued against the petitioner.

11. The said contention of the petitioner has received the attention of this Court. The activities required to be carried out by a Booth Level Officer is well defined. The District Administration vide an order dated 11.09.2023, on it being brought to its notice that the teachers engaged as Booth Level Officers were irregular in attending their respective schools on the plea of performing duties of Booth Level Officer, had stipulated that no teacher would be allowed to be remain absent/inattentive in their respective schools in the name of

performing works related to Booth Level Officer. It was further stipulated that the works related to Booth Level Officer would be performed beyond school hours.

12. In the case in hand, the petitioner admittedly was absent from the school on 15.02.2024 and the justification is that he was involved in a meeting, which is related to the duties required to be discharged by him as a Booth Level Officer.

13. In the light of the stipulations as contained in the said order dated 11.09.2023, the petitioner could not have abandoned duties on 15.02.2024 during school hours and that too, when there is nothing brought on record by the petitioner that he was by way of a written order required to convene a meeting on 15.02.2024 at 12:30 PM for the purpose of constitution of a committee for creating voter awareness. Accordingly, the petitioner willfully remained absent from the school on 15.02.2024 and that too, after suspending the school before the completion of the school hours on the said date. The petitioner having remained absent and the justification not being found to be acceptable by this Court, this Court is of the considered view that the pay cut as effected for 1 (one) day from the salaries of the petitioner for the month of February, 2024 to be not erroneous.

14. However, the learned counsel for the petitioner having submitted that such pay cut may also be construed as a break in service, this Court by considering the manner in which the pay cut was so effected as well as the fact that there was no proceeding as contemplated under the provisions of the Assam Service (Discipline and Appeal) Rules, 1964 initiated and concluded in respect of the petitioner, such pay cut of the petitioner be not construed to have any effect of ensuing a break in service of the petitioner, which would have the effect of wiping away the services rendered by the petitioner before 15.02.2024.

15. With regard to the allegation of misconduct leveled against the petitioner of having suspended school before the scheduled hour of closure of the school without jurisdiction, the materials brought on record reveals that the respondents have already issued notices to the petitioner and a reply thereof was submitted by him. The respondents are at liberty to proceed further in the matter, in accordance with law, after taking into consideration the reply submitted by the petitioner.

16. With the above observations and directions, the present writ petition stands disposed of.

JUDGE

Comparing Assistant