

GAHC010214642024



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

Case No. : WP(C)/5614/2024

MD. JOMIL AHMED
S/O LATE ABDUL MAZID
R/O VILL- SHALMARABORI
P.O. BECHAMARI,P.S. DHING
DIST. NAGAON, ASSAM
PIN-782123

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, SECONDARY EDUCATION DEPARTMENT, DISPUR, ASSAM,
PIN-781006

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-781019

3:SECRETARY TO THE GOVT. OF ASSAM

DEPARTMENT OF SCHOOL EDUCATION
DISPUR
GUWAHATI-781019

4:THE INSPECTOR OF SCHOOLS

MDC
MORIGAON
ASSAM

PIN-78210

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV, MS M NIROLA,MR J ISLAM

Advocate for the Respondent : SC, SEC. EDU.,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

04.04.2025

Heard Ms. M. Nirola, learned counsel for the petitioner and Mr. U. Sarma, learned counsel for the Secondary Education Department.

2. The writ petitioner's grievance is that in terms of the order dated 18.07.2022 passed in WP(C) No.4477/2022, the State Government was to take a decision on the appeal filed by the Hazi Amsar Ali Muktar Girls Senior Secondary School (hereinafter referred to as 'the school'), represented by the Chairman of the Governing Body of the School Management Committee, Mr. Mustafa Shahidul Islam, within a period of 1(one) month from the date of receipt of the appeal. Till a decision was taken by the State Government, the State Government was directed not to provincialize the services of the writ petitioner herein and one Md. Tariquel Islam, who were the respondent Nos.6 & 7 in WP(C) No.447/2022 respectively.

3. The petitioner's case is that there is no proof that the Hazi Amsar Ali Muktar Girls Senior Secondary School represented by Mr. Mustafa Shahidul Islam, who were the petitioner Nos.1 & 2 in WP(C) No.4477/2022 respectively, had filed an appeal, pursuant to the order dated 18.07.2022 passed in WP(C)

No.4477/2022. As such, the petitioner herein has prayed for a direction to the respondent authorities to provincialize the services of the writ petitioner, inasmuch as the other staff of the said school sans the writ petitioner and the respondent No.7 in WP(C) No.4477/2022, have been provincialized.

4. Mr. U. Sarma, learned counsel for the Secondary Education Department, on the other hand, submits that in pursuance to the order dated 18.07.2022 passed in WP(C) No.4477/2022, the said school through Mr. Mustafa Shahidul Islam has submitted an appeal on 20.12.2022, with a request not to provincialize the services of the petitioner and the respondent No.7 in WP(C) No.4477/2022, on the ground that their services had been terminated by the Principal of the school on the recommendation of the State Level Scrutiny Committee. As such, provincialization of the services of the writ petitioner herein and the respondent No.7 in WP(C) No.4477/2022 could not be done.

5. Mr. U. Sarma, learned counsel for the Secondary Education Department further submits that Mr. Mustafa Shahidul Islam, who was the Chairman of the School Management Committee of the school has expired and as such, an advice has been sought for from the Senior Standing Counsel, Department of School Education, Gauhati High Court, as to whether the appeal filed by Mr. Mustafa Shahidul Islam should be disposed of.

6. The order dated 18.07.2022 passed in WP(C) No.4477/2022 states at para 5 & 6 as follows:-

5. In that view of the matter, the petitioners are directed to file an appeal before the State Govt. against the recommendation of the State Level Scrutiny Committee within a period of 10(days) days from today. Thereafter, State Govt.

on consideration of the facts and circumstances of the case shall pass appropriate orders and in accordance with law within a period of 1(one) month from the date of receipt of the appeal.

6. Till such time, the State Govt. disposes of the appeal, the respondents are directed not to provincialise the services of the respondent Nos. 6 and 7."

7. The Hazi Amsar Ali Muktar Girls Senior Secondary School and Mr. Mustafa Shahidul Islam are arrayed as writ petitioner Nos.1 & 2 respectively in WP(C) No.4477/2022.

8. As the letter No.E-275543/112 dated 02.02.2025 issued by the Secretary to the Government of Assam, Department of School Education has stated that an appeal had been filed on 20.12.2022 by Late Mustafa Shahidul Islam, it can be implied that the said appeal petition had been filed not only on behalf of Late Mustafa Shahidul Islam, but also on behalf of the school. As such, the Secretary to the Government of Assam, Department of School Education will have to take a decision on the said appeal petition dated 20.12.2022, within 30(thirty) days from today, even if Mr. Mustafa Shahidul Islam has expired.

9. List this matter again on **06.05.2025**.

10. It is made clear that if the appeal petition dated 20.12.2022, which is reflected in the letter dated 02.02.2025 issued by the Secretary to the Government of Assam, Department of School Education is not disposed of by way of a reasoned order by the next date, the same could amount to a deliberate violation of the order dated 18.07.2022 passed in WP(C) No.4477/2022.

11. The letter dated 02.02.2025 issued by the Secretary to the Government of Assam, Department of School Education is made a part of the record and marked as Annexure-X.

JUDGE

Comparing Assistant