

GAHC010225352024



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

Case No. : WP(C)/5629/2024

ABDUL JALIL MAZUMDER
ASSTT. TEACHER OF 231 NO. HINGLAIRPAR L.P. SCHOOL, S/O- LATE
TAYOB ALI MAZUMDER, VILLAGE AND P.O. RANGAUTI PART-I, P.S. AND
DIST.- HAILAKANDI, ASSAM

VERSUS

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

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

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
HAILAKANDI
P.O. HAILAKANDI
DISTRICT- HAILAKANDI
ASSAM
PIN- 788151

4:THE DEPUTY INSPECTOR OF SCHOOLS
HAILAKANDI
ASSAM

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
HAILAKANDI
DIST.- HAILAKANDI
ASSAM

PIN- 788151

6:ALI HAIDAR
THE C.R.C.C. OF RANGAUTI-1
C/O BLOCK ELEMENTARY EDUCATION OFFICER
HAILAKANDI
DIST.- HAILAKANDI
ASSAM
PIN- 788151

7:MAKLISUR RAHMAN MAZUMDER
S/O- LATE MAJORAF ALI MAZUMDER
VILLAGE AND P.O. RANGAUTI PART-I
P.S. AND DIST.- HAILAKANDI
ASSA

Advocate for the Petitioner : MS. S B CHOUDHURY, MR. S K DAS

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

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 11.11.2024

Heard Ms. S.B. Choudhury, learned counsel for the petitioner.

The petitioner is aggrieved by the Order dated 19th August, 2024 issued by the Director of Elementary Education, Assam, wherein it is stated that in pursuance of the inquiry report submitted by the D.E.O., Hailakandi, it is found that the allegation against the delinquent teacher/petitioner is proved and accordingly, a departmental proceeding against the petitioner will be concluded after recovery of all the financial liabilities incurred by the petitioner due to misappropriation of fund.

It is the case of the petitioner that no show cause notice was issued to him and the alleged department inquiry was conducted behind the back of the

petitioner, thereby depriving the petitioner of an opportunity of being heard. This Court on 04.11.2024 directed the learned standing counsel, Elementary Education, Assam to receive instructions.

Today when the matter is called up, Ms. N. Phukan, learned standing counsel, Elementary Education Department, has produced a Communication dated (NIL) November, 2024 written by the Director of Elementary Education, Assam and the contents of the said communication reads as under :

Sir,

With reference to the subject cited above, I would like to state that a letter has been already issued to DEEO, Hailakandi for submission of report in connection with 2731/2023, filed earlier by the petitioner for being the Department Proceeding against the petitioner to its logical end vide letter under reference No. (ii).

Now, from Standing Counsel letter under reference No. (i), it is seen that the petitioner had withdrawn the earlier case and filed the instate WP(C)/5629/2024.

It is pertinent to mention here that DEEO, Hailakandi had submitted the detail report upon enquiry, based on the report this office issued order dtd. 19/08/2024.

*The said order was passed to take "**further necessary steps**" for bringing the Departmental Proceeding against the petitioner to its logical conclusion upon giving the petitioner an opportunity to defend his case and for determination of financial liabilities of the petitioner (if any) after detail verification of records/documents.*

Accordingly, the Department Proceeding will be finalized in respect of Abdul Jalil Mazumder after receipt of conclusive report from DEEO, Hailakandi in this regard as sought vide letter under reference No. (ii). Further, it is stated that no decision for imposing penalty on the petitioner was given vide the aforementioned order.

Therefore, you are requested to apprise the matter before Hon'ble High Court.

Encl: As stated above,"

Further, another Communication dated 6th November, 2024 written by the Director of Elementary Education, Assam and addressed to the District

Elementary Education Officer, Hailakandi, is produced before this Court and the contents of the said communication are also reproduced hereinbelow:

Sir,

With reference to the subject cited above, I am to say that in pursuance of your letter under reference No. (ii), this office had already issued order under reference No. (i) on the matter of Department Proceeding of petitioner, Abdul Jalil Mazumder.

*In this regard you are instructed to issue a "**Show Cause Notice**" to the delinquent teacher and also conduct a **Hearing** for giving an opportunity to the petitioner of being heard in person as well as verification of relevant documents on the basis of the enquiry report submitted from your end.*

Therefore, you are requested to furnish the conclusive report of proceeding and action taken details on the recovery of financial liabilities of the petitioner (if any) for bringing the Departmental Proceeding to its logical conclusion and finalisation of the Departmental Proceeding against the petitioner.

Encl: As stated above."

Issue notice.

Ms. N. Phukan, learned standing counsel, Elementary Education Department, appears for the respondent Nos. 1 to 5.

Extra copies of the writ petition be furnished to the learned counsel appearing for the respondents.

Petitioner to take steps for service of notice on the respondent Nos. 6 & 7 by registered post with A/D within one week from today.

Respondents are allowed to file their respective affidavit.

List this matter after 4 (four) weeks.

In the interim, the Order dated 19.08.2024 passed by the Director of Elementary Education, Assam shall remain suspended till the next returnable date.

JUDGE

Comparing Assistant