

GAHC010229592021



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

**Case No. : WP(C)/334/2022**

JAHIRUL ISLAM AND ANR.  
S/O LATE NIYAMAT ALI @ NIYAT ALI  
VILL- BAMUNIR BHITA  
P.O. MEDORTARI  
P.S. FAKIRGANJ  
DIST. DHUBRI, ASSAM, PIN-783330

2: ABUL HUSSAIN  
(SECRETARY OF MEDORTARI HIGH SCHOOL)  
S/O MONIR UDDIN  
VILL- BAULORI  
P.O. CHIRAKUTI BAZAR

P.S. FAKIRGANJ  
DIST. DHUBRI  
ASSAM  
PIN-78333

VERSUS

THE COMMISSIONER AND SECRETARY AND 10 ORS.  
TO THE GOVT. OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT,  
DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM  
KAHILIPARA  
GUWAHATI-19.

3:THE DEPUTY COMMISSIONER

DHUBRI DISTRICT  
ASSAM

PIN-783301

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER

DHUBRI  
ASSAM  
PIN-783301

5:THE CIRCLE OFFICER OF SOUTH SALMARA REVENUE CIRCLE

P.O. AND P.S. SOUTH SALMARA  
DIST. DHUBRI  
ASSAM  
PIN-783127

6:THE BLOCK DEVELOPMENT OFFICER

JAMADARHAT DEVELOPMENT BLOCK  
VILL AND P.O. CHIRAKUTI  
P.S. FAKIRGANJ  
DIST. DHUBRI  
ASSAM  
PIN-783330.

7:THE BLOCK ELEMENTARY EDUCATION OFFICER

SOUTH SALMARA EDUCATIONAL BLOCK  
P.O. AND P.S. SOUTH SALMARA  
DIST. DHUBRI  
ASSAM  
PIN-783127

8:THE MEDORTARI M.E. SCHOOL

VIL- BAMUNIRBHITA  
P.O. MEDORTARI  
P.S. FAKIRGANJ  
DIST. DHUBRI  
ASSAM  
PIN-783330

9:ABDUL KHALEQUE

THE HEAD MASTER OF MEDORTARI M.E. SCHOOL

S/O LATE RIYAZ UDDIN  
VILL- SATSIA (POKIYA)  
P.O. JAMADARHAT

P.S. FAKIRGANJ  
DIST. DHUBRI  
ASSAM  
PIN-783330

10:THE MEDORTARI L.P. SCHOOL

VILL- BAMUNIRBHITA  
P.O. MEDORTARI  
P.S. FAKIRGANJ  
DIST. DHUBRI  
ASSAM  
PIN-783330

11:ABDUL AWAL MIAH  
THE HEAD MASTER OF MEDORTARI L.P. SCHOOL

S/O LATE MOFIZ UDDIN  
VILL AND P.O. MEDORTARI  
P.S. FAKIRGANJ  
DIST. DHUBRI  
ASSAM  
PIN-78333

**Advocate for the Petitioner** : MR. M U MAHMUD

**Advocate for the Respondent** : SC, ELEM. EDU

**BEFORE**

**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

14.02.2022

Heard Mr. M. U. Mahmud, learned counsel for the petitioners and Mr. P. N. Sarma, learned Standing Counsel, Elementary Education Department for the respondent Nos. 1, 2, 4 & 7. Also heard Mr. J. Handique, learned Government Advocate as well as Standing Counsel, Revenue Department for the respondent Nos. 3, 5 & 6.

The father of the petitioner No. 1, namely, Niyamat Ali @ Niyat Ali and one Boluruddin, during their lifetime respectively donated plot of land measuring 2 Bighas

1 Katha 16 Lechas of KP Patta No. 26, Dag No. 77 at Village-Bamunirvita, Mouza-South Salmara under South Salmara Revenue Circle, District-South Salmara, Mankachar, erstwhile Dhubri District and 1 Bigha 0 Katha 11 Lechas of land covered by Dag No.93, KP Patta No.26 at Village-Bamunirvita, Mouza- South Salmara under South Salmara Revenue Circle, District-South Salmara, Mankachar, erstwhile Dhubri District for establishment of Medortari High School. The said land was accordingly mutated in the name of Medortari High School.

It is stated by the petitioners that said Medortari High School is not in existence over the said land donated by the predecessors of the petitioners but presently Medortari ME School and Medortari LP School are in existence over the said land that was donated by the predecessors of the petitioner No.1, Jahirul Islam earlier for Medortari High School.

Hence this writ petition by the petitioners for a direction to the respondents to handover the said land donated by their predecessors to them since the purpose for which said land was donated, are not in existence over it.

Issue notice, returnable by **11.03.2022**.

As Mr. P. N. Sarma, learned Standing Counsel, Elementary Education Department and Mr. J. Handique, learned Government Advocate as well as Standing Counsel, Revenue Department have accepted notice on behalf of the respondent Nos. 1, 2, 4 & 7 and 3, 5 & 6, no formal notice need be issued to those respondents.

Petitioners shall serve requisite extra copies of this petition along with the annexures appended thereto to Mr. P. N. Sarma, learned Standing Counsel, Elementary Education Department and Mr. J. Handique, learned Government Advocate as well as Standing Counsel, Revenue Department by tomorrow, i.e., 15.02.2022, obtaining necessary acknowledgment from them in that regard.

Petitioners shall take steps for service of notice on the respondent Nos. 8, 9, 10 & 11 by registered post with A/D by tomorrow, i.e., 15.02.2022, providing their proper and correct addresses with requisite postal stamps.

On the returnable date (i.e., 11.03.2022), the Circle Officer, South Salmara

Revenue Circle, Dhubri, respondent No. 5 as well as the Block Development Officer, Jamadarhat Development Block, Dhubri, respondent No. 6 after due verification of records and land documents shall apprise the Court about the status of land donated by the predecessors of the petitioners for establishment of Medortari High School as well as about the status of land of those Medortari ME School and Medortari LP School,.

In the said report, the Circle Officer, South Salmara Revenue Circle, Dhubri, respondent No. 5 as well as the Block Development Officer, Jamadarhat Development Block, Dhubri, respondent No. 6 shall also apprise the Court as to whether the schools, i.e., the respondent No. 8 and the respondent No. 10 are occupying the land donated by the predecessors of the petitioners and whether the land donated by the predecessors of the petitioners, noted above, have been mutated in the names of respondent Nos. 8 and 10, schools, and if so, on what basis.

Further, on the said date (i.e., 11.03.2022), the District Elementary Education Officer, Dhubri, respondent No. 4 shall apprise the Court as to whether the respondent Nos. 8 and 10, schools, namely, Medortari ME School and Medortari LP School are provincialised or not, and if provincialised, whether their schools are over any Government land, if so, shall give details about it and if not, they shall describe the relevant land schedules on which those two schools are in existence.

Copies of this order be furnished to Mr. P. N. Sarma, learned Standing Counsel, Elementary Education Department and Mr. J. Handique, learned Government Advocate as well as Standing Counsel, Revenue Department, for their necessary use.

**JUDGE**

**Comparing Assistant**