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

Case No. : WP(C)/5963/2024

SWARNALI PATHAK
DAUGHTER OF LT. BIJAYA BORA PATHAK,
RESIDENT OF VILLAGE- HAIBORGAON,
LAWKHOWA ROAD,
P.O. HAIBORGAON,
DISTRICT- NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
DEPARTMENT OF SCHOOL EDUCATION,
DISPUR, GUWAHATI-6.

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

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NAGAON
ASSAM
PIN- 782001.

4:CHANDAN BHATTACHARYA
TUTOR
DAKHAN JAR BAGAN LP SCHOOL

P.O. -BARPANI
P.S.- KACHUA

PIN- 782450

NAGAON
ASSAM

Advocate for the Petitioner : MR D MAHANTA, MR T GOGOI

Advocate for the Respondent : SC, ELEM. EDU,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 18.11.2024

Heard Mr. D. Mahanta, learned counsel for the petitioner and Ms. S. Chutia, learned Standing counsel for the respondent Nos. 1, 2 and 3, being the authorities in the Elementary Education Department.

2. The grievance, which is sought to be addressed in this writ petition, is that the petitioner was working as Headmistress of Dakhin Jarbagan L.P School, under BEEO, Kothiatoli. The petitioner was placed under suspension, vide memo No. EAA/B/108/2023/24-A, dated 31.05.2023, in connection with an incident of food poisoning of the students of her school on 17.05.2023. Thereafter, vide order dated 05.06.2024, she was reinstated by concluding departmental proceeding and punishment of stoppage of one increment without cumulative effect was imposed upon her and also the next senior most Assistant Teacher was allowed to act as In-Charge Headmaster in her place.

3. Mr. Mahanta, learned counsel for the petitioner submits that the departmental proceeding was conducted behind the back of the petitioner and she had not participated in the same and knowing about the same, she had filed one representation for furnishing the enquiry report, dated 05.12.2023, to her but, the same has not been furnished to her. Mr. Mahanta further submits that the impugned order of imposing punishment is illegal and arbitrary and

therefore, it is contended to set aside the same.

4. The submission of Mr. Mahanta, learned counsel for the petitioner needs further consideration.

5. At this stage, let notice be issued to the respondents returnable in four weeks.

6. However, no formal notice is required to be issued to the respondent Nos. 1, 2 and 3, as Ms. Chutia, learned Standing counsel for the Elementary Education Department appears and accepts notice on behalf of them. However, extra copies of the petition be furnished to her during the course of the day.

7. Steps be taken upon the respondent No. 4 by way of registered post with A/D as well as by usual process within a week from today.

8. List the matter after four weeks.

9. In the meantime, Ms. Chutia, learned Standing counsel for the respondent Nos. 1, 2 and 3 shall produce the relevant record before this Court and also obtain necessary instruction on the returnable date.

JUDGE

Comparing Assistant