

GAHC010266562023



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

Case No. : WP(C)/6906/2023

SMTI. SNEHALATA SINGHA
W/O LATE CHANDAN RAJKUMAR, R/O H.N. 44, MALUGRAM SHIV BHARI
ROAD, NEAR GOBINDAGI MANDIR, WARD NO. 2, PIN-788002, DIST-
CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION,
DISPUR, GUWAHATI-781006

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

4:THE INSPECTOR OF SCHOOL
CACHAR DISTRICT CIRCLE
SILCHAR
DIST-CACHAR
ASSAM

5:THE HEAD MISTRESS
CACHAR HIGH SCHOOL
SILCHAR
DIST-CACHAR

ASSAM

6:THE MANAGING COMMITTEE OF THE CACHAR HIGH SCHOOL
REPRESENTED BY ITS PRESIDENT
SILCHAR-788002
DIST-CACHAR
ASSAM

7:THE ASSISTANT DIRECTOR OF AUDIT (L.F.)
ASSAM
SILCHAR CIRCLE
SILCHAR
DIST-CACHAR
ASSA

Advocate for the Petitioner : MR. M SARMA, MS Z RASHUL

Advocate for the Respondent : SC, SEC. EDU., MS M BORAH(R-6),MR M R ADHIKARI (R-6),MS M BORAH (R5),MR M R ADHIKARI (R5),GA, ASSAM,SC, FINANCE

BEFORE

HON'BLE MRS. JUSTICE SHAMIMA JAHAN

25.05.2026

Heard Mr M Sarma, learned counsel appearing for the petitioner and Mr P P Dutta, learned Standing Counsel, Secondary Education. Also heard Mr P Saikia, learned counsel appearing on behalf of respondent No. 7, i.e., the Assistant Director of Audit, and Mr M R Adhikari, learned counsel for the respondent Nos. 5 and 6, i.e., the Headmistress and the Managing Committee of the Cachar High School.

2. By this application filed under Article 226 of the Constitution of India, the petitioner has prayed for a writ in the nature of mandamus, directing the respondents to pay the gratuity amount payable to her deceased husband, amounting to Rs. 10,72,089/- (Rupees Ten Lacs Seventy Two Thousand and Eight-Nine) only, which was payable on his retirement

3. The case of the petitioner is that her husband was initially appointed as an Assistant Teacher of Nehru High School on 28.09.1988 and was transferred and posted as

Assistant Teacher of Cachar High School, on 26.09.1999. Thereafter, the State Selection Board recommended, in view of an order passed by this Court and the petitioner's husband was promoted to the post of headmaster of Cachar High School, vide order dated 05.08.2017. Thereafter, the petitioner's husband continued as the Headmaster and he superannuated on 31.05.2020. It is stated by the petitioner that her husband died on 26.03.2021, and a certificate was issued to that effect.

4. Thereafter, an audit was conducted in the Cachar High School for the period w.e.f. 01.04.2014 to 30.05.2020, and therein, an objection was raised for an expenditure of Rs. 6,42,550/- incurred during the period when the husband of the petitioner was the Headmaster of the said school. It is stated by the petitioner that the said amount of Rs. 6,42,550/- was in fact, diverted from Mid-Day Meal Account to the Development Account, as per the decision taken by the School Management and Development Committee (SMDC, in short). It is also stated that the said amount was spent on renovation and repair work of the school.

5. After the superannuation of the husband of the petitioner, pension was allowed and even after the death of the petitioner's husband, the petitioner was receiving the pension, but the gratuity amount of Rs. 10,72,089/- (Rupees Ten Lacs Seventy Two Thousand and Eight-Nine) only, was not paid to her till date. It is stated by the petitioner that non-liability certificate was not issued by the Headmaster of the school and as such, the authorities in the Government could not release the gratuity amount.

6. For non-payment of the gratuity amount, petitioner submitted a representation before the respondent No. 5, i.e., the Headmistress of Cachar High School, with a request to look into the matter and to release the gratuity amount and the said representation was forwarded by the respondent No. 5 to the respondent No. 7, i.e., the Assistant Director of Audit, Assam, to do the needful for the release of the gratuity amount. It is also stated by the petitioner that along with the said letter dated 13.04.2022, i.e., the forwarding letter, the resolution of the respondent No. 6, i.e. SMDC, approval as well utilization certificate for the entire money was also forwarded. In response to the

said forwarding letter, the Assistant Director of Audit, Assam, wrote to the Headmistress of Cachar High School, with a direction that the school authority should take concrete steps for pursuing the matter as per the direction of the higher authority. It was also directed that the school authority should see necessary guidelines from the higher authority for settling the matter.

7. The respondent No. 5, i.e., the Headmistress of Cachar High School, by an affidavit had annexed a letter, which he had addressed to the Director of Secondary Education, Assam, intimating that to meet the audit objection, the Director of Secondary Education may either allot fund of Rs. 6,42,550/- as spent in connection with construction work of the school or to give post facto approval for diversion of the fund from the Mid-Day Meal Account to the construction activities. However, the said exercise has not been done as yet, i.e., there was no reply from the Director of Secondary Education, Assam.

8. However, in an affidavit filed by the said respondent, i.e., Director of Secondary Education, Assam, on 05.05.2006, it was stated that the Headmistress of the School did not provide the audit settlement report along with non-liability certificate in respect of the husband of the petitioner, and as such, the said prayer could not be acceded to by the authority concerned. As such, it is seen that the Director of Secondary Education and the Headmistress of Cachar High School are trying to saddle the responsibility on each other and in the process, the petitioner is suffering for non-payment of the gratuity amount.

9. In view of the aforesaid facts and circumstances, it is, therefore directed that the Director of Secondary Education, should give the ex-post facto sanction in view of the fact that there was no question of misappropriation done by the husband of the petitioner since the said amount was used by the school in construction activity. Further, it is directed that the school authorities upon receiving the ex-post-facto approval shall issue the non-liability certificate in favour of the husband of the petitioner and the resultant gratuity amount of Rs. 10,72,089/- (Rupees Ten Lacs Seventy Two Thousand and Eight-Nine) only, should be paid to the petitioner to which she is entitled to. The entire exercise may be done within a period of 2 (two) months from the date of receipt of a

certified copy of this order.

10. Petition is disposed of.

JUDGE

Comparing Assistant