

(2015) 03 MEG CK 0002
In the Meghalaya High Court
Case No : Writ Petition (C) No. 197/2014

Amzad Hossain and Others	Vs	APPELLANT
State of Meghalaya and Others		RESPONDENT

Date of Decision : 30-03-2015

Acts Referred:

Meghalaya School Education Act, 1981 — Section 9

Citation : (2015) 03 MEG CK 0002

Hon'ble Judges : T. Nandakumar Singh, J.

Bench : Single Bench

Advocate : A.G. Momin, for the Appellant

Final Decision : Allowed

Judgement

T. Nandakumar Singh, J.—Heard Mr. AG Momin, learned counsel for the petitioners, Mr. KP Bhattacharjee, learned GA appearing for the respondents No. 1-4 and Ms. S Bhattacharjee, learned counsel for the respondent No. 5.

2. The prayer sought for in the present writ petition reads as follows:--

"It is most respectfully prayed that Your Lordship would be graciously pleased to admit this Petition, issue Rule, call for the record and after hearing the parties be pleased to direct the Respondents to disburse the salary to the petitioners forthwith and/or further be pleased to pass such other Order or Orders as your Lordship deem fit and proper." 3. The factual background of the case of the petitioners leading to the filing of the present writ petition for the relief aforesaid is briefly noted. The petitioners are the founder teachers of Bogularbhita - A upgraded L.P. School. It is also stated in the writ petition that they had all along been rendering their services as Headmaster and an Assistant teacher respectively of the said school since 2001 without any complaint from any quarter. The school formally started functioning in January, 2003 after getting permission from the Deputy Inspector of School, Dadenggiri and grant-in-aid was also extended to the said school. It is the further case of the petitioners" that the

said school was upgraded to two teachers school in the year 2009 i.e. one Headmaster and one Assistant teacher and the grant-in-aid was increased to Rs. 12,000/- PM (Rupees twelve thousand). In para-5 of the writ petition, it is stated clearly that in the year 2011, the Secretary of the Managing Committee of the said school despite the said school being two teachers school, appointed Smti. Alima Begum, wife of the Secretary of the Managing Committee as the third teacher of the said school in the month of July, 2010 and demanded Rs. 2000/- (Rupees two thousand) from each of the petitioners to be paid to his wife. Therefore, it is clear from the pleadings of the petitioners in the writ petition that the respondent No. 5 had appointed his wife as the third teacher of the said school.

4. It is alleged in the writ petition that on refusal of the petitioners to the deduction of Rs. 2000/- (Rupees two thousand) from each of the petitioners' salary, the services of the petitioners had been terminated on 07.03.2011, without providing them an opportunity of being heard in complete violation of Section 9 of the Meghalaya School Education Act, 1981. The said termination orders had been set aside by the erstwhile Gauhati High Court vide judgment and order dated 29.11.2011 (Common Judgment) in WP(C) No. (SH)78 of 2011 and WP(C) No. 79 of 2011 filed by the present writ petitioners assailing the said termination orders. The copy of the said common judgment and order of the erstwhile Gauhati High Court dated 29.11.2011 is available at Annexure-I to the writ petition. It is also alleged in the writ petition that on failure of the Managing Committee to disburse the remuneration of the petitioners in terms of the said common judgment and order of the erstwhile Gauhati High Court, had filed a contempt petition being Cont. Case No. (SH) 19 of 2012. The said contempt petition was closed vide order dated 09.08.2012. The operative portions of the order dated 09.08.2012 read as follows:--

".... But Mr. AH Hazarika, learned counsel submits that the petitioners are prepared to received their dues in terms of the Managing Committee resolution dated 14.05.2012, directly from the Secretary of the Managing Committee of the school. In response Mrs. Bhattacharjee submits that the Managing Committee will have no difficulty in directly disbursing the dues to the petitioners.

In view of above, the petitioners are directed to report before Mr. Pineuddin SK, the Secretary of the School Managing Committee on 13.08.2012 and on such reporting, the Secretary of the Managing Committee will hand over salary dues to both the petitioners, in terms of the Managing Committee's Resolution dated 14.05.2012.

The petitioners would however diligently discharge their duties as teachers in Bogulabhita (A), upgraded LP School, and if there is any deficiency in service, in terms of the earlier Court's order dated 29.11.2011, the Managing Committee is at liberty to take action against the erring teachers, in accordance with law.

This contempt proceeding is accordingly closed with the above direction."

5. The Joint District Mission Coordinator Dadenggiri, West Garo Hills under his letter dated 26.03.2014 directed the Secretary/President of the Managing Committee of the school i.e. the respondent No. 5 to disburse the salaries of the teachers of the said school. The copy of the said letter of the Joint District Mission Coordinator Dadenggiri, West Garo Hills dated 26.03.2014 is available at Annexure-IV and it reads as follows:--

"SARVA SHIKSHA ABHIYAN OFFICE OF THE JOINT DISTRICT MISSION COORDINATOR DADENGGRE, WEST GARO HILLS

Memo No. Jt.DMC/SSA/D-Salary/3422 Dated Dadenggre the 26th March, 2014

From,

Smti. I.G. Momin, M.A., B.Ed Joint District Mission Coordinator, Dadenggre, West Garo Hills.

To,

The Secretary/President Bhogularbhita (A) SSA L.P. School

Subject:- Disbursement of salary to the teachers of Bhogularbhita (A) SSA L.P. School.

Sir,

With reference to the subject cited above, I am to inform you that the pending salaries of Bhogularbhita (A) SSA/L.P. School teachers should be disbursed immediately as per the resolution passed in the general public meeting held on 05.04.2013.

Further, the Managing Committee of Bhogularbhita (A) SSA L.P. School has been approved by the undersigned vide Memo No. Jt.DMC.SSA/WGH/Complaint/2011.3365.

Therefore you are directed to disburse the pending salaries to the teachers of the said school without fail.

Yours faithfully, Sd/- (I.G. Momin) Joint District Mission Coordinator Dadenggre, West Garo Hills

Memo No. Jt.DMC/SSA/D-Salary/3422-24 Dated Dadenggre the 26th March, 2014

Copy for information

1. The District Mission Coordinator, West Garo Hills, Tura
2. The Block Mission Coordinator, Tikrikilla.

Sd/- Joint District Mission Coordinator Dadenggre, West Garo Hills"

6. The respondent No. 5 also filed affidavit-in-opposition wherein, the respondent No. 5 is not denying that the petitioners are not receiving their salaries. Ms. S

Bhattacharjee, learned counsel for the respondent No. 5 also contended that the Secretary of the Managing Committee is ready to disburse the salaries of the petitioners of the said school without fail.

7. In the above factual backdrop, the relief sought for in the present writ petition is granted by directing the School Managing Committee to disburse the due salaries to the petitioners within a period of three weeks from the date of receipt of a certified copy of this judgment and order.

8. Writ petition is allowed.