

(2026) 01 MEG CK 1741

In the Meghalaya High Court

Case No : Writ Petition (C) No. 248 Of 2018, 473 Of 2019

Nozrul Islam

APPELLANT

Vs

State Of Meghalaya & Ors

RESPONDENT

Date of Decision : 09-01-2026

Acts Referred:

Citation : (2026) 01 MEG CK 1741

Hon'ble Judges : B. Bhattacharjee, J

Bench : Single Bench

Advocate : H.L. Shangreiso, D. Lyngdoh, K.P. Bhattacharjee, S. Shyam, R. Debnath

Final Decision : Dismissed

Judgement

B. Bhattacharjee, J

1. This set of two writ petitions involving interconnected issues is taken up together for disposal.

2. In WP(C) No.248 of 2018, the petitioner has prayed for quashing and setting aside of the Resolution No.1,2,3 dated 02.03.2017, Minute dated 09.06.2017, Resolution No.1 dated 23.06.2017, Minute dated 29.06.2017 and 27.07.2017 of the Managing Committee of Lalmati SSA U.P School and also prayed for release of his salary w.e.f. November 2017.

3. In WP(C) No. 473 of 2019, the petitioner's challenge is against the action of the respondents in removing him from the post of the Assistant Teacher, Science and Mathematics, of Lalmati SSA U.P School and the appointment of the respondent No.7 in his place. A prayer has been made to interfere with the impugned orders dated 27.06.2017, 11.10.2017 and 16.01.2018 issued by the Jt. District Mission Coordinator, Dadenggre and also the Managing Committee Resolution dated 05.12.2017.

4. Heard Mr. H.L Shangreiso, learned Senior counsel assisted by Ms. D. Lyngdoh,

learned counsel for the petitioner, Mr. K.P. Bhattacharjee, learned GA appearing for the respondent Nos. 1 – 4 and Mr. R Debnath, learned counsel appearing for the respondent Nos. 5 – 7. The learned counsels have also submitted their respective written notes of argument.

5. The fact of the case, as can be revealed from the averments made in the writ petitions, is that the petitioner was appointed as the Assistant Teacher of Science and Mathematics in Lalmati SSA U.P School vide appointment letter dated 02.05.2014 pursuant to a Resolution dated 25.04.2014 of the Managing Committee of the School and accordingly, he joined the post by filing a joining report on 05.05.2014. The said appointment was provisionally approved by the Jt. District Mission Coordinator by order dated 22.06.2016. However, the petitioner had to approach this Court by filing WP(C) No.301 of 2016 for a direction to release his pending salary w.e.f. 05.05.2014 i.e. the date of his joining the service. The said writ petition was withdrawn by order dated 10.11.2016 on the basis of a deed of agreement dated 28.10.2016 executed between the petitioner and the respondent No.7 and, thereafter, the pending salary of the petitioner was paid w.e.f. July 2015 to October 2017. Despite release of the pending salary on the basis of the said agreement, the respondents again stopped payment of salary to the petitioner w.e.f. November 2017 onwards. The petitioner had submitted representation to the District Mission Coordinator, Tura, requesting him to look into the matter, however, no action was taken. The petitioner, thereafter, submitted an application on 07.11.2017 under the Right to Information Act, 2005, seeking certain information which were provided to him by letter dated 28.03.2018. It is only after that, the petitioner came to know that the approval of his appointment was cancelled by the impugned letter dated 16.01.2018 which was issued pursuant to the impugned orders dated 27.06.2017 and 11.10.2017 and also the impugned Resolution dated 05.12.2017 of the School Managing Committee. Further, the respondent No.7 was appointed in the place of the petitioner as the Assistant Teacher of Science and Mathematics. It is stated in the writ petition that the entire action was taken behind the back of the petitioner without issuing any show-cause notice at the instance of the respondent No.7 in order to accommodate him in the place of the petitioner as the post of the headteacher/headmaster held by the respondent No.7 became a non-sanctioned post after Sarva Shiksha Abhiyan (SSA for brevity) scheme was implemented.

6. The respondents contested the writ petitions by filling their respective affidavits-in-opposition. Separate affidavits were filed by the respondent Nos.1-4, the respondent No.5 and the respondent No.7. The reasons cited for removal of the petitioner from service are that the petitioner had no requisite qualification for appointment in the post of Assistant Teacher of Science and Mathematics as he failed in Mathematics in his HSSLC(Sc) Examination and that his appointment was not made by the Managing Committee of the School. The purported resolution of the Managing Committee dated 25.04.2014, basing on which the petitioner has made his claim for appointment, is not found anywhere in the

school record. Further, the appointment of the petitioner was made without any advertisement and the petitioner did not join the school at any point of time and has also obtained the provisional approval of the appointment by misleading the concerned authority. It is to be noted that by order dated 26.06.2024, this Court had directed for filing of a detailed affidavit on behalf of the State respondent by an officer holding the rank of Secretary, Education Department or the State Project Director, Meghalaya, as the existing affidavits filed on behalf of the State were confusing and were filed by officers who were not even authorised to accord approval to the appointment of the petitioner. Accordingly, an elaborate affidavit was filed on 17.10.2024 by the State. The petitioner did not file any rejoinder to the said affidavit dated 17.10.2024 of the State.

7. The learned Senior counsel for the petitioner submits that the petitioner was appointed by letter dated 02.05.2014 pursuant to a resolution dated 25.04.2014 of the Managing Committee of the Lalmati SSA U.P School. The appointment of the petitioner was accorded provisional approval by the respondent No.4 on 22.06.2016 and, hence, the action of the respondents in removing the petitioner without any show cause notice and without affording any opportunity cannot stand in the eye of law. He submits that the petitioner was removed from the post of Science and Mathematics Teacher with a malafide intention to accommodate the respondent No.7 in his place as the post of head teacher/headmaster held by the respondent No.7 was not a sanctioned post under the SSA scheme. The learned Senior counsel further argues that as per the National Council for Teacher Education (NCTE in short) norms, neither the petitioner nor the respondent No.7 has requisite qualification for appointment to the post of Assistant Teacher of Science and Mathematics and, thus, the non-fulfillment of requisite qualification could not have been a valid ground for removal of the petitioner. He submits that the fact that the respondent No.7 was initially accommodated as a Language Teacher just after the introduction of the SSA scheme and subsequently as a Science and Mathematics Teacher in place of the petitioner by allowing the respondent No.7 to acquire requisite qualification at a later stage, demonstrates the ill intention of the respondents to save the appointment of the respondent No.7 in blatant violation of established norms of law and principle of fair play. According to the learned Senior counsel, the stand of the respondent No.7 that his appointment dated 15.01.2002 was saved by the notification dated 18.06.2012 of the Ministry of Human Resources Development is not tenable in view of the fact that the respondent No.7 was never appointed in accordance with the NCTE Regulation of 2001. He, therefore, submits that entire action of the respondents against the petitioner is violative of principle of natural justice and is liable to be interfered by this Court and prays for issuance of necessary directions for reinstatement of the petitioner and payment of salary with effect from November 2017 onwards. In support of his argument, learned Senior counsel has placed reliance on a decision of the Apex Court in *Basudeo Tiwary v. Sido Kanhu University and others*, (1998) 8 SCC 194.

8. The learned GA appearing for the State respondent Nos. 1-4 submits that the

petitioner was never appointed by the Managing Committee of the Lalmati SSA U.P School pursuant to conducting a selection process by constituting a selection committee or interview board. No advertisement was issued in the year 2014 for appointment of any teacher in the said school. He submits that the appointment of the petitioner was done solely by the then President without the knowledge of the Secretary and Head Teacher-cum-Ex-Officio Member Convenor of the managing committee of the school and the same is void ab-initio. In addition, he submits that the petitioner did not have the requisite qualification as per the NCTE norms for holding the post of Science and Mathematics teacher as he failed in Mathematics in HSSLC examination. He submits that the supposed appointment of the petitioner was kept in dark for more than two years and the provisional approval was obtained by misleading the respondent No.4, who was also not the authorised officer to accord approval; such provisional approval has no validity and cannot be accepted. He submits that the so-called joining report dated 05.05.2014 was never submitted to the school and the petitioner never attended or taught in the school as a regular teacher. The name of the petitioner does not figure anywhere in the Attendance Register of the school w.e.f. June 2014 to September 2016 and, thus, the claim of the petitioner is totally false. It is further submitted by the learned GA that the name of the petitioner is also not found in the Unified District Information System for Education (UDISE in short) database right from the year of its implementation i.e. 2009-10 to 2022-23 as a teacher of the school which confirms the fact that the petitioner was never appointed as a teacher in the school. Regarding the status of the respondent No.7, the learned GA submits that the respondent No.7 is a founder teacher of the school and is serving as the Head Teacher of the school right from its inception in the year 2002. The appointment of the respondent No.7 under the SSA scheme is not a new or fresh appointment and he continued to function as the Head Teacher in the school by holding a sanctioned post. The allocation of subject to a teacher, he submits, is the prerogative of the managing committee of the school and the implementing agency or the State normally does not meddle in the matter. He submits that the respondent No.7 has the requisite qualification for holding the post of Science and Mathematics Teacher which he acquired in due course on being permitted by the concerned authority. He further submits that the agreement dated 16.10.2016 annexed with WP(C) No. 473 of 2019 has no enforceability in law and the state being not a party to it has no knowledge of existence of any such agreement. The learned GA, therefore, submits that there is no merit in the case of the petitioner and prays for dismissal of the writ petitions. The decisions of the Apex Court in Mohd. Sartaj & Anr v. State of UP & Ors, (2002) SCC 315 and State of Bihar & Ors v. Devendra Sharma, (2020) 15 SCC 466 has been relied on by the learned GA in support of his argument.

9. The learned Counsel for the respondent Nos. 5-7 adopts the submission made on behalf of the State respondents and in addition, submits that the purported resolution dated 25.04.2014 of the managing committee of the school basing on

which the petitioner claimed his appointment is not found anywhere in the official record of the school. The learned Counsel further submits that the appointment of the petitioner was issued by the then president of the managing committee in his personal capacity in connivance with the petitioner in order to extend undue favour to the petitioner. He submits that the petitioner did not join the school at any point of time and kept the purported appointment letter in his possession only for the purpose of claiming salary. He submits that after the managing committee came know about the illegal claim of the petitioner, a complaint dated 03.04.2017 was filed before the concerned authority of the state and accordingly the provisional approval of the appointment of the petitioner was cancelled by order dated 16.01.2018 upon realization of the fact that there was no valid appointment in favour of the petitioner. He submits that the petitioner has no locus standi to question the appointment of the respondent No.7 as he does not have the requisite qualification to claim appointment to the post of teacher under the SSA scheme. He contends that the NCTE norms will not bind the respondent No.7 as he was appointed as a founding teacher since the time of inception of the school in the year 2002 and the State or the implementing authority of the SSA scheme has never raised any objection to the continuation of service of the respondent No.7 under the SSA scheme. By placing reliance on the decision of the Apex Court in State of Orissa and another v. Mamata Mohanty, (2011) 3 SCC 436, he submits that a person appointed in violation of due process of law is not entitled to any relief including salary. He, therefore, prays for dismissal of the writ petitions.

10. The submissions made by the rival parties and perusal of the materials on record reveals that the petitioner claimed his appointment on the basis of an appointment letter dated 02.05.2014 issued pursuant to a purported resolution dated 25.04.2014 of the managing committee of the Lalmati SSA U.P School. However, there is nothing on record to show that the said appointment was made after issuance of any advertisement and by holding a regular selection process as per the established norms and practice. Furthermore, the contention of the respondents that the copy of the purported resolution dated 25.04.2014 is not available in the official record of the school has not been rebutted by the petitioner. In this context, it would be appropriate to refer to the enquiry report dated 30.04.2018 of the Block Mission Coordinator, SSA, Selsela, West Garo Hills, wherein it was held the claim of the petitioner was not found to be genuine. The relevant part of the report is extracted below: -

"That Madam, the claim of Shri. Nozrul Islam as an Asstt. Teacher Science is not found to be genuine as in the original resolution of SMC nowhere it is found any resolution as regards his appointment though the appointment of Shri. Nozrul Islam has been made by the then President in the outside without the knowledge and consent of the Head Master cum Secretary. Moreover, the signature of Shri. Nozrul Islam is not found in the teacher attendance register from 5th May, 2014 to 31st Oct.2016 and also vide SMC resolution No.1 dtd. 5th Dec. 2017 the Jt. District Mission Coordinator, Dadenggre vide letter No. Jt/DMC-D/SSA/Appt-tr/

cancel/2018/1010-13 dated Dadenggre the 16/01/2018, the approval of Shri. Nozrul Islam is cancelled as in the letter of Jt. DMC has quoted as 'it is found in the records that the appointment of Shri. Nozrul Islam is not done with at the conformity of the rules'."

The petitioner has not made any challenge to the finding recorded in the above enquiry report dated 30.04.2018. Therefore, it is difficult for this Court to hold that the petitioner was offered any valid appointment by the managing committee of the school.

11. It appears from the affidavit dated 17.10.2024 filed by the Project Director, State Education Mission Authority of Meghalaya that the then President of the School Managing Committee was all in all in issuing the appointment letter dated 02.05.2014 and in accepting the supposed joining report dated 02.05.2014 of the petitioner and everything was kept a secret and done behind the back of the Head Teacher cum Ex-officio Member Convenor of the School as well as the Education Authority of the state. There is further assertion that the order of provisional approval dated 22.06.2016 issued by the then I/C Jt. DMC, Dadenggre was in violation of the norms and procedures laid down by the Government issued vide letter No.MEGH/SSA-SEMAM/AO/44/2012/52 dated 10.06.2013 as the Jt. DMC was not the proper authority for according such approval. The fact that the approval of the petitioner's appointment was sought after a long gap of 2 years in the year 2016 in itself creates suspicion about the legality of the petitioner's appointment.

12. The contention of the respondents that the petitioner did not have requisite qualification for appointment to the post of Assistant Teacher of Science and Mathematics as he failed in mathematics in his HSSLC examination has not been disputed by the petitioner. The claim of the petitioner for appointment before this Court is entirely based on the assertion that the respondent No.7 did not have requisite qualification to be appointed in the post of Assistant Teacher of Science and Mathematics. Even if such an assertion is accepted, that would not make the petitioner qualified or eligible to be appointed in the said post. Unless the petitioner is able to demonstrate that he fulfills all the essential qualification required for appointment to the post of Science and Mathematics Teacher, his claim for appointment in the said post cannot be accepted.

13. Further, the extract of the School Teachers Attendance Register of the Lalmati U.P SSA School annexed with the affidavit-in-opposition filed by the State respondent Nos. 1-4 in WP(C) No. 248 of 2018 and the UDISE database of the teachers of the school for the year 2009-10 to 2022-23 annexed with the affidavit dated 17.10.2024 of the State Project Director do not reflect the name of the petitioner as a sanctioned teacher of the school. In addition, the representation dated 20.02.2016 with regard to non-payment salary submitted by all the then teachers of the school appended in the WP(C) No.248 of 2018 does not bear the name and signature of the petitioner. The above facts unerringly project that the petitioner was never functioning as a sanctioned

teacher in the school.

14. In so far as the question of continuation of the respondent No.7 in the post of Headmaster cum Science Teacher is concerned, there is no dispute to the fact that he was appointed as the founding teacher of the school in the year 2002. After the SSA scheme was introduced in the year 2010, the respondent No.7 continued to function as the Headmaster and when the post of Science and Mathematics teacher fell vacant, he was accommodated in the said post while discharging the duty of the Headmaster after being allowed to acquire requisite qualification by the no objection certificate dated 18.09.2014 of the Sub-Divisional School Education Officer, West Garo Hills, Dadenggre. The accommodation of the respondent No.7 was not a fresh or a new appointment. It is clear from the averments made by the State-respondents that the allocation of subject to a teacher is a prerogative of the managing committee of the school and the State authority does not normally interfere in such matter. The State-respondents further asserted that the respondent No.7 has in due course acquired the qualification to be eligible for the post of Science and Mathematics teacher.

15. The proposition laid down in the case of Basudeo Tiwari (*supra*) with regard to observance of principle of nature of justice cannot have random application without ascertaining the facts and situation of a case. In the present case the petitioner has miserably failed to establish that any valid appointment order was issued in his favour by a person holding lawful authority to issue such appointment. On the contrary, the resolution of the managing committee dated 25.04.2014 basing on which the petitioner has based his claim for appointment, is not found in the records of the school. That apart, it is undisputed that the petitioner does not hold the requisite qualification for appointment to the post of Science and Mathematics teacher. In such a situation, the plea of the petitioner that no opportunity was provided to him before the passing of the impugned orders is of no consequence.

16. The authorities relied upon on behalf of the respondents, though relevant to some extent, are not discussed in details in view of the observations made hereinabove.

17. For what has been discussed, the petitioner has failed to make out any case for interference by this Court. Resultantly, both the writ petitions stand dismissed.

18. However, in the facts and circumstances of the case, there will be no order as to costs.