
(2004) 03 GAU CK 0035
In the Gauhati High Court
Case No : W.A. No. 532 of 2003

Ranbir Dutta

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 24-03-2004

Acts Referred:

Assam Aided Higher Secondary, High and Middle Schools Management Rules, 1976 — Rule 4

Citation : (2004) 3 GLR 298 : (2004) 2 GLT 1396

Hon'ble Judges : P.P. Naolekar, C.J.; Aftab H. Saikia, J

Bench : Division Bench

Advocate : N. Saikia and A. Bora, for the Appellant; S.N. Sarma and A.K. Purakayastha, for the Respondent

Final Decision : Dismissed

Judgement

P.P. Naolekar, C.J.—On 23.6.2002, the Managing Committee of Eraligool Public High School which is a non-provincialised school was reconstituted for 3 years by the Inspector of Schools, KDC, Karimganj by nominating one Abdul Satter as the President and one Ramendu Chakravarty as the Secretary of the said Committee. This was done as per the provision set forth in the Assam Aided H.S./High and Middle Schools Management Rules, 1976 (hereinafter referred to as the "1976 Rules"). Later on, Sri Ramendu Chakravarty who was nominated as the Secretary of the committee had expressed his unwillingness to continue as the Secretary of the Managing Committee and as a result thereof, the appellant/writ petitioner who was the Principal of another school namely Thakuagram Higher Secondary School, Karimganj was nominated as the Secretary in place of Ramendu Chakravarty by the Inspector of Schools, KDC, Karimganj. The appellant-writ petitioner took the charge of the Secretary and had continued in the said post for some time. But, it has so happened on 16.10.2003 that the Joint Secretary to the Govt. of Assam, Education Department has sent a letter to the Inspector of Schools, KDC, Karimganj to show cause as to why the appellant-writ petitioner has been nominated as the Ex-officio Secretary of the Managing

Committee of Eraligool Public High School and directed that the Headmaster of the school i.e. Respondent No. 5 being the Headmaster should be nominated as the Secretary of the Managing Committee. The Inspector of Schools, KDC, Karimganj submitted his reply before the Secretary to the Govt. of Assam, Education Department stating in paragraph 4 of the said reply that in the event of resignation tendered by Sri Ramendu Chakravarty, Secretary of the Managing Committee of the school, it was required to nominate another Secretary and at that time a group of staff of the school accompanied by some local guardians approached him with the request not to nominate Sri A. Karim, Headmaster, Respondent No. 5 as the Secretary on the plea that the nomination of Sri A. Karim as Secretary may give rise to various problems. In the school affairs and under the provision of Rule 25 of the Rules of 1976 and considering the aspect that Sri Ranabir Dutta, the present appellant who was the Principal of nearby school and whose name was also recommended for Secretary of Eraligool Public School by local MLA, Patherkandi and the President of Karimganj Zilla Parishad. Sri Dutta was nominated as the Secretary of the school with a further view that the school administration will run smoothly and properly.

2. From this reply, it is apparent to us that the appellant was nominated as the Secretary because, certain members of the public have made complaint against the Headmaster of the school and that, there was recommendations of the local MLA as well as by the President of Karimganj Zilla Parishad to nominate the appellant as the Secretary.

3. On consideration of the reply submitted by the Inspector of Schools, KDC, Karimganj, the Joint Secretary to the Government of Assam, Education Department by order dated 19.11.2003 directed the Inspector of Schools to rectify his action immediately and to inform the Govt. In pursuance of the order issued by the Joint Secretary to the Govt. of Assam, Education Department, an order was passed by the Inspector of Schools, KDC, Karimganj on 8.12.2003 nominating the Respondent No. 5 as the Secretary and removing the appellant from the post of Ex-officio Secretary of the Managing committee of the school.

4. Aggrieved by the said order of removal, the appellant filed a writ petition in the High Court which was registered and numbered as WP(C) No. 10073/2003. The learned Single Judge dismissed the writ petition and therefore the appellant has come before us challenging the order of the learned Single Judge by filing the present writ

5. To get relief from the court and for direction to be issued to the appropriate authorities, it is incumbent upon the appellant-writ petitioner to satisfy the court of his right to hold the post and thus, the order of removal tantamounts to encroachment upon the right of the petitioner to hold a particular post.

6. In the present case, the nomination of the appellant to the post of ex-officio Secretary of the Managing Committee of the school shall be governed by the Rules of 1976, particularly Rule 4 of the Rules. Rule 4(c) and (d) of the Rules

read as under :

(c) The Principal of the Higher Secondary, the Head-master of the High School or the Headmaster of the Middle School shall be nominated by the Government: as Ex-officio Secretary of the Managing Committee of the school, unless there is any specific allegation against any Principal or Headmaster of Higher Secondary School or High Schools or Middle Schools.

(d) One of the non-official members shall be nominated as Joint Secretary. He will be allowed by the Government to function as the Secretary when the Secretary is unable to function due to illness, long leave or any limitation imposed under Clause (c) above.

7. On a plain reading of Rule 4(c) and (d) of the Rules of 1976, it is apparent to us that normally the Headmaster of High School shall be the Secretary of the Managing Committee of the school. His right to hold the post of Secretary can be denied if there are any specific allegations against the Headmaster. If the Headmaster could not be nominated as the Secretary of the Managing Committee of the school, one of the non-official member who is nominated as Joint Secretary can hold the post of the Secretary, Refusal to nominate the Headmaster of the High School as Secretary can be only on the ground that there are specific allegations against him. From the reply given by the Inspector of Schools, to the show cause notice, we don't find that any specific allegations have been made against the Headmaster namely the Respondent No. 5 at the time when the post of Secretary of the Managing Committee of the school became vacant. In absence of any specific allegation, the nomination of the Headmaster to the post of Secretary of the Managing Committee of the school could not have been denied. At the same time, the appellant-writ petitioner was neither the Headmaster of the school in question, nor was the Joint Secretary of the Managing Committee of the school, and therefore, he could not be nominated under the Rules to the post of Secretary.

8. That being the case, the appellant has no right to claim his nomination to the post of Secretary of the school or continuation of his nomination in the said post. For the aforesaid reason, the appeal fails and is dismissed. However, in the facts and circumstances of the case, there will be no order as to costs.