

GAHC010156642020



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

Case No. : WP(C)/4766/2020

UBAIDULLA AND 16 ORS.
S/O- NEZAM UDDIN, A R/O- VILL- CHAITUAIKHATY, P.O. CHAITUAIKHATY,
DIST.- MORIGAON, ASSAM

2: IMDAD AHMED

3: NASIR UDDIN

4: AHIA KAMAL

5: RAFIQUL ISLAM

6: ABDUL SAMAT

7: ANAMUL HOQUE

8: MD. ROSHIDUL HOQUE

9: MD. SADIQUR RAHMAN

10: MUSTAK AHMED

11: NASIR UDDIN

12: YABUL HUSSAIN

13: MD. WAHIDUR RAHMAN

14: MD. ISMAT ALI

15: IDRISH ALI

16: MD. ABDUL MUTALEB

17: FAIZ UDDI

VERSUS

THE STATE OF ASSAM AND 2 ORS.

TO BE REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM, DISPUR, GHY-6

2:THE COMM. AND SECY.

3:THE DIRECTOR OF SECONDARY EDUCATIO

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

JUDGMENT & ORDER (ORAL)

Date : 17-11-2020

Heard Mr. S. Hegde, learned senior counsel for the petitioners. Also heard Mr. D. Saikia, learned senior counsel for the respondents.

2. The petitioners herein are all students who/parents whose wards, are

undertaking education in the provincialised Madrassa Institutions in the State of Assam. The petitioners are aggrieved by the communication dated 07.10.2020 of the Deputy Secretary to the Government of Assam to the Director of Secondary Education, Assam through which it was informed that the Government has decided to close the Madrassas and further about 148 numbers of contractual Madrassa teachers may be shifted to schools under the Secondary Education Department of Assam. A further communication dated 13.10.2020 from the Director of Secondary Education, Assam to the various Inspectors of Schools in Assam is also assailed wherein also it is provided that the government had decided to close the Madrassa Institutions and the working contractual teachers are to be shifted to general schools under the Secondary Education Department as per the Government letter dated 07.10.2020. The letter of 13.10.2020 appears to be a consequential communication pursuant to the earlier communication dated 07.10.2020.

3. The petitioners raise the contention that the decision to close down the Madrassas would adversely affect the prospects of the petitioners inasmuch as they are presently pursuing their education in the Madrassa education stream. A further contention has been raised that the provincialised Madrassas are a result of the Assam Madrassa Education (Provincialisation of Services of Employees and Re-organisation of Madrassa Educational Institutions) Act, 2018 and therefore, as the provincialised Madrassas itself are result of a statutory provision, therefore, the same cannot be closed down merely through an administrative communication. The third contention is that even otherwise, the decision to close down is an outrageous defiance of logic.

4. Be that as it may, Mr. D. Saikia, learned senior counsel for the respondents makes a statement before the Court that although the expression decision had been used in the communication dated 07.10.2020, infact it is not a final decision of the State authorities and on the other hand, the expression decision merely refers to the initiation of a process by the State authorities to bring about a closure of the Madrassa

Institutions. A further statement has been made that the Government Authorities are conscious and aware of the adverse consequences that the students pursuing their education in the Madrassa stream may have to face in the event of an abrupt closure without any effective alternative and therefore the procedures adopted would be such that it would ensure that atleast the present batch of students who are in the Intermediate (final FM), Final (FM) and MM are allowed to complete the courses that they may be presently undergoing.

5. Considering the statement by the learned senior counsel for the State government authorities in the Secondary Education Department of the Government of Assam that the decision is not a final decision, we have taken note of that the grievances of the petitioners for setting aside the decision contained in the impugned communication dated 07.10.2020 have been take care of. The grievances of the petitioners as reflected from the interim prayer is that the Madrassa Institutions should not be immediately closed down as because it may adversely affect the prospects of the students who are presently pursuing the course has also been taken care of. Infact, we cannot but agree with the submission of the learned senior counsel that in the given circumstances as indicated above by the State government authorities, this writ petition is presently premature.

6. From the said point of view and by taking on record the statement of the learned senior counsel for the State government authorities as indicated above, we close this writ petition for the present and it is needless to say that liberty shall always remain to approach again if and when it may be deemed appropriate and necessary.

JUDGE

Comparing Assistant