

# THE HIGH COURT OF MEGHALAYA

## WA. No. 41 of 2011

Shri. Hamidur Rahman, Son of (L) Akber Ali, Village & P.O. Hallidayganj, P.S. Phulbari, District-West Garo Hills, Meghalaya.

**....Appellant.**

-VERSUS-

1. The State of Meghalaya, represented by the Commissioner and Secretary to the Government of Meghalaya, Education Department, Shillong.
2. The Director of Schools Education and Literacy, Meghalaya, Shillong.
3. The Inspector of Schools, West Garo Hills, Tura.
4. The Deputy Inspector of Schools, Dadengiri, West Garo Hills, Meghalaya.
5. The Management Committee of the Hallidayganj Deficit Upper Primary School, Hallidayganj, represented by its President.
6. The Secretary of the Managing Committee, Hallidayganj Deficit Upper Primary School, Hallidayganj.
7. Shri Azad Ali Sheikh, Son of (L) Bonday Ali Sheikh, Village konarchar, P.O.Saribari, P.S. Tura, District – West Garo Hills, Meghalaya.

**.....Respondents.**

Ms. SG Momin, Advocate, Mr. R.Kar, Advocate, present for the appellant.

Mr. ND Chullai, Sr. GA, Mr. R.Gurung, GA., Mr. S.Sen Gupta, GA present respondents.

Date of Hearing 25<sup>th</sup> June, 2014.

Date of Judgment & Order 25<sup>th</sup> June, 2014.

HON'BLE THE CHIEF JUSTICE,  
and HON'BLE MR. JUSTICE T Nandakumar Singh.

## **JUDGMENT AND ORDER**

(ORAL: Hon'ble Prafulla. C. Pant, Chief Justice)

1. This writ appeal is directed against judgment and order dated 25-8-2011 passed by learned Single Judge in WP(C) No. 352 (SH) of 2010 whereby the writ petition was allowed and letter dated 8-9-2010 passed by Deputy Inspector of Schools, Dadengiri, West Garo Hills, Meghalaya was quashed.
2. Heard learned counsel for the parties and perused the papers on record.
3. Brief facts of the case are that the appellant being Graduate was promoted on 10-10-2009 as Head Master of Hallidayganj Deficit Upper Primary School. It is pleaded by the appellant that his promotion was duly approved by the Deputy Inspector of Schools. It is stated that ignoring the appellant's promotion, the Management Committee of the School vide its resolution dated 3-7-2010 promoted Shri Azad Ali Sheikh [(respondent No.7) writ petitioner in the writ petition)] who was merely a matriculate. It is further pointed out that the promotion of the writ petitioner though earlier approved but later recalled vide order dated 8-9-2010 by the Deputy Inspector of Schools, Dadengiri.
4. The writ petitioner challenged the order dated 8-9-2010 passed by the Deputy Inspector of Schools, Dadengiri on the ground that being the senior most Assistant Teacher in the School, he was rightly promoted as Head Master of the

School. Learned Single Judge accepted the plea taken by the writ petitioner and allowed the petition.

5. Learned counsel for the writ appellant argued before us that the learned Single Judge has erred in law in quashing the order dated 8-9-2010, as the writ petitioner was not qualified to hold the post of Head Master.
6. Attention of this court is drawn to the instruction contained in communication dated 7-5-1997 issued by Deputy Inspector of Schools, West Garo Hills, Tura Sadar. Said documents reads as under:

**“GOVERNMENT OF MEGHALAYA**

**OFFICE OF THE DEPUTY INSPECTOR OF  
SCHOOL, WEST GARO HILLS, TURA SADAR.**

**NOTICE**

*It has come to the notice of the undersigned that some Upper Primary Schools are still entertaining Non-Matriculate Teachers in the Schools even the Notification has been given that they shall qualify themselves within 3 (three) years by passing Matriculation from the date of issue of the letter No. 5210-5356 dated 2-3-91.*

*Due to the implementation of the New Education System in the State of Meghalaya, the Upper Primary Schools will consist of classes from Class-V to Class-VII which is to be taught in English Medium only in the class except Mother Tongue.*

*Again, the recent Notification issued by the Director of Public Instruction, Meghalaya, Shillong's No. EG-I/OB/2/96/90 dt. 14-3-97 in future, the entertainment of Teaching Staff in Upper Primary Schools should be as shown below for the smooth running of the classes.*

1. For Headmaster/  
headmistress -

*Minimum qualification should be Graduate preferably Local Candidate. In case of non-availability of Graduate, P.U. candidate also can be considered.*

2. *For Assistant Teacher - Minimum qualification should be P.U. passed preferably Local candidate.*

*Therefore, in future Non-Matriculate Teachers should be entertained in the Upper Primary Schools.*

*In case, the existing Non-Matriculate Teachers in Upper Primary Schools, they should qualify themselves by passing Matriculation Examination within 3 (three) years from the date of issue of this Notice.*

*The Managing Committee should take immediate action to terminate the Teachers concern accordingly in case they failed to qualify themselves within fixed time.*

*This will come into force with immediate effect.*

*Sd/-  
Deputy Inspector of School,  
West Garo Hills, Tura Sadar.  
Memo.No.AUPS/MC/DIST/97/1550-7058/ Dated  
Tura, the 7<sup>th</sup> May, 97."*

7. Learned State counsel also conceded that in absence of the Rules applicable in the matters of promotion to the post of Head Master in Upper Primary Schools, the administrative instructions were required to be followed in the matter. No one has turned up on behalf of the writ petitioner (present respondent) even after being sufficiently served with the notice in the year 2011, in this writ appeal.
8. In the above circumstances, having considered the communication dated 7-5-1997 (quoted above), issued on behalf of the education authorities that the minimum qualification to hold the post of Head Master/Head Mistress was Graduation, the approval granted for promotion in favour of the writ petitioner on 2-9-2010 was liable to be withdrawn. As such, communication dated 8-9-

2010 issued by Deputy Inspector of Schools cannot be said to be against the provisions of law, as the writ petitioner being only matriculate did not fulfill the minimum qualification to hold the post of Head Master.

9. For the reasons as discussed above, we are of the view that this writ appeal deserves to be allowed.

10. Accordingly, writ appeal is allowed. Impugned order dated 25-8-2011 passed in WP(C) No. 352 (SH) of 2010 is set aside.

(Hon'ble Mr Justice TNK Singh)  
JUDGE  
25<sup>th</sup> June, 2014

(Prafulla C. Pant)  
CHIEF JUSTICE  
25<sup>th</sup> June, 2014.

S.Rynjah