

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 383 of 2017 with
WP(C) No. 264 of 2020
WP(C) No. 456 of 2021
WP(C) No. 460 of 2021
WP(C) No. 464 of 2021
WP(C) No. 119 of 2022
WP(C) No. 147 of 2022

Date of Decision: 24.11.2023

Smti. Nazila Begum	Vs.	State of Meghalaya & Ors.
Shri. Nurul Amin	Vs.	State of Meghalaya & Ors.
Shri. Joyan Ali	Vs.	State of Meghalaya & Ors.
Smti. Shobuza Begum & Anr.	Vs.	State of Meghalaya & Ors.
Smti. Shobuza Begum & Anr.	Vs.	State of Meghalaya & Ors.
The School Managing Committee, Khetadhowa SSA UP School, Bhaitbari	Vs.	State of Meghalaya & Ors.
Nurul Amin	Vs.	State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Chief Justice (Acting)

Appearance:

In WP(C) No. 383 of 2017

For the Petitioner/Appellant(s) : Mr. S. Deb, Adv.

For the Respondent(s) : Mr. H. Abraham, GA
Mr. K.P. Bhattacharjee, GA
Ms. I. Lyngwa, GA(For R 1 & 2)

Ms. P. Agarwal, Adv. (For R 4).

In WP(C) No. 264 of 2020

For the Petitioner/Appellant(s) : Ms. P. Agarwal, Adv.

For the Respondent(s) : Mr. H. Abraham, GA
Mr. K.P. Bhattacharjee, GA
Ms. I. Lyngwa, GA(For R 1-3)
Mr. S. Deb, Adv. (For R 4)

In WP(C) No. 456 of 2021

For the Petitioner/Appellant(s) : Mr. S. Deb, Adv.

For the Respondent(s) : Mr. H. Abraham, GA
Mr. K.P. Bhattacharjee, GA
Ms. I. Lyngwa, GA(For R 1-6)
Mr. N. Syngkon, Adv. (For R 7 & 8).

In WP(C) No. 460 of 2021

For the Petitioner/Appellant(s) : Mr. S. Deb, Adv.

For the Respondent(s) : Mr. H. Abraham, GA
Mr. K.P. Bhattacharjee, GA
Ms. I. Lyngwa, GA(For R 1-6)
Mr. N. Syngkon, Adv. (For R 7).

In WP(C) No. 464 of 2021

For the Petitioner/Appellant(s) : Mr. S. Deb, Adv.

For the Respondent(s) : Mr. H. Abraham, GA
Mr. K.P. Bhattacharjee, GA
Ms. I. Lyngwa, GA(For R 1-6)
Mr. N. Syngkon, Adv. (For R 7 & 8).

In WP(C) No. 119 of 2022

For the Petitioner/Appellant(s) : Mr. N. Syngkon, Adv.

For the Respondent(s) : Mr. H. Abraham, GA
Mr. K.P. Bhattacharjee, GA
Ms. I. Lyngwa, GA(For R 1 & 2)

Mr. S. Deb, Adv. (For R 3).

In WP(C) No. 147 of 2022

For the Petitioner/Appellant(s) : Mr. N. Syngkon, Adv.

For the Respondent(s) : Mr. H. Abraham, GA
Mr. K.P. Bhattacharjee, GA
Ms. I. Lyngwa, GA.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER

1. These matters where the common issue involves the service of the teachers of Khetadhowa SSA UP School, are being taken up and disposed of by this common order and judgment.
2. The genesis of the controversy which has engulfed the school which has seen multiple and protracted litigation repeatedly before this Court, with claims and counter claims which had become difficult to adjudicate, occasioned for an order of this Court dated 07.02.2023 to be passed, directing for a full-fledged enquiry to be instituted by the Commissioner and Secretary, Education Department. Pursuant to the said order, and after grant of extension of time, for completion of the enquiry, the report was submitted on 21st July, 2023.

3. Before advertng to the report, which is detailed and conclusive, it is relevant to note herein that, due to the disputes that have arisen, coupled with unauthorized and illegal actions of some of the players herein, both from the official side, as well as the teachers, the salaries of the rightful recipients amongst the teachers have been withheld. A case in point is WP(C) No. 383 of 2017, wherein the petitioner, who is a sanctioned teacher namely Smti. Nazila Begum, has not been paid her salary from the month of January 2021, till date. Subsequently, as it appears from the records, the operation of the account of the school was also suspended, as there was no valid school Managing Committee in existence. Further, the controversy became more pronounced and complicated due to the rival claims, as to who were the sanctioned teachers in the said school.

4. The enquiry report which has been furnished has however, clarified the issues in contention, and has shed light as to the nature of the controversy involved in the said school. In this context therefore, this Court finds it expedient and necessary to rely upon the same in the adjudication of these cases.

5. As per the report, the history of disputes between the teachers and the Managing Committee of Khetadhowa SSA UP School, involves three significant phases:-

- (i) First Phase – February 2010 - January 2017
- (ii) Second Phase – February 2017 - 27th September, 2019
- (iii) Third Phase – 28th September, 2019 - 5th February, 2021.

6. In the First Phase, the school was brought under SSA in February 2010, and it was instructed by the District Mission Coordinator (DMC), that the school Managing Committee should be constituted, and three teachers, that is, (i) One Language teacher, (ii) One Science and Mathematics teacher, and (iii) One Hindi teacher with Diploma, was to be appointed. The same was done vide a Resolution dated 03.03.2010, and four teachers, were appointed namely one Giasuddin Ahmed, as Head Teacher, Abdul Goffur Khan and Abdul Rafique as Assistant Teachers, and one Nurul Amin as Hindi Teacher. However, on the resignation of Shri. Abdul Goffur Khan, the Managing Committee appointed Smti. Nazila Begum as Language Teacher, and thereafter, on the resignation of the Head Teacher, Shri. Giasuddin Ahmed, Smti. Shobuza Begum, BSc was appointed as Head Teacher. It is to be noted that, all the teachers including Nurul Amin, had endorsed her appointment.

7. As the fulfillment of National Council for Teachers Education (NCTE) norms was made mandatory, the school Managing Committee of the school, in its meeting dated 06.04.2014, decided to give three

years' time to its teachers to acquire the said qualification. As per the meeting dated 03.05.2015, it was reported that, three teachers of the school, had fulfilled the required NCTE norms, and these were Smti. Shobuza Begum, Shri. Abdul Rafiq and Smti. Nazila Begum. As recorded in the enquiry report, Shri. Nurul Amin, failed to acquire the required qualification, to fulfil NCTE norms, during that period of time and was present in the meeting dated 03.05.2015, as a teacher representative, when all the decisions were taken. Thereafter, with the advent of the 'Right of Children to Free and Compulsory Education' (RTE), the permissible number of teachers as per SSA UP School norms was 3 in number, one for Language, one for Science and Mathematics, and one for Social Studies.

8. The Second Phase, as per the report, then witnessed the origin of the controversy, as Shri. Nurul Amin, started claiming himself to be the Language Teacher, the Senior Most Teacher and also Head Teacher, from the year 2017. This it appears, was on the basis of a purported approval order issued by one Shri. T.S. Sangma, the then In-charge Joint DMC, who was not authorized nor empowered to issue the same. It is noted that, in this regard, a show-cause notice was issued to the said Thomas S. Sangma, on 29.10.2019, by the competent authority, for his illegal action. The controversy was then compounded due to the actions

of another Joint DMC, namely Smti. Ela Begum Laskar, who then issued orders in favour of Shri. Nurul Amin, such as, by declaring him to be the Language Teacher, apart from the Senior most and Head Teacher. Thereafter, the Managing Committee with Smti. Shobuza Begum, as the ex-officio member convener, was also dissolved by Smti. Ela Begum Laskar, and a new Managing Committee with Nurul Amin, as ex-officio member convener, was approved. Though complaints were made, as to the illegal constitution of the said Managing Committee, which was formed without a general public meeting being called, contradictory resolutions were passed by this Committee, which were approved by Smti. Ela Begum Laskar, in her capacity as Joint DMC. As recorded in the report, Shri. Nurul Amin, allegedly mis-appropriated school funds and also deducted the salary of Smti. Nazila Begum, which compelled her to file WP(C) No. 383 of 2017. In this period, another writ petition being WP(C) No. 30 of 2018, was also filed for dissolution of the Managing Committee, approved by Smti. Ela Begum Laskar, wherein Shri. Nurul Amin, was made the ex-officio member convener.

9. The Third Phase, in the sequence of events commenced with the State Project Director SSA Shillong, directing for a detailed enquiry about the irregularities in the school, on receipt of complaints vide order dated 28.09.2019, to ascertain the correct position. In the said order, it

was also directed that ample opportunity be given to all the stake holders, to file their claims and counter claims with relevant documents. On notices being issued, all concerned respondents except Nurul Amin replied, and who, even after 3 notices were issued, instead wrote to the DMC, asking for revocation of the notices, which on being refused, even wrote to the State Project Director, asking him to revoke the letter dated 28.09.2019, by which the enquiry had been ordered. The enquiry authority, that is, the DMC Tura, then as no replies were forthcoming, obtained all the relevant documents from the office of the Joint DMC, Shri. R.K. Hajong, whereafter, a detailed report was prepared and submitted to the State Project Director SSA, vide letter dated 06.02.2020.

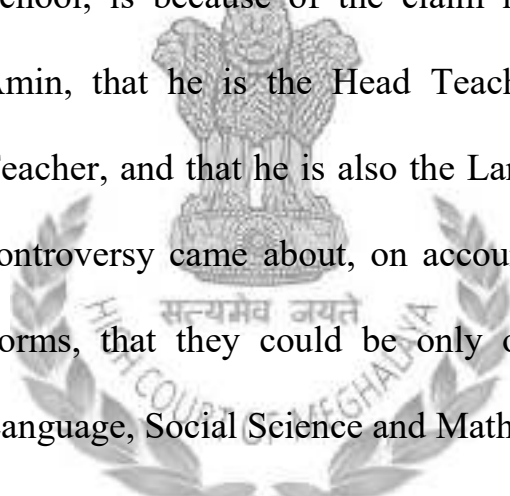
10. As per the materials and the report, the DMC Tura, on the directions of the State Project Director SSA, then vide letter dated 02.03.2020, declared that the claim of Shri. Nurul Amin, as a Language Teacher, Senior Most Teacher and Head Teacher, was untenable, as compared to the claim of Smti. Nazila Begum, as Language Teacher, and Smti. Shobuza Begum as Head Teacher. However, the events took another twist, inasmuch as, Smti. Ela Begum Laskar, on assuming charge as In-charge DMC, once again, by an order dated 13.05.2021, first kept in abeyance the enquiry report dated 06.02.2020, and also

order dated 02.03.2020, passed by her predecessor, and subsequently passed an order dated 04.08.2021, nullifying the enquiry report and order dated 03.02.2020. It is noted that as per the report, the said enquiry report dated 06.02.2020, and order dated 02.03.2020, as per the claim of Smti. Ela Begum Laskar, was cancelled pursuant to the findings of a meeting allegedly conducted on 04.08.2021, which however, was found out to be false on an enquiry conducted by the Administrative Officer SSA(E), on directions from the State Project Director.

11. It is then seen that in this continuing saga, in the said school, amidst the intense litigation, as per the report, and which is evidenced by material documents, a forged document that is, a letter dated 13.05.2021, was annexed by Shri. Nurul Amin in WP(C) No. 119 of 2021, which was with regard to the term of the Managing Committee. This was then compounded by the same document being annexed by the State respondents, which however, when the same was detected was corrected by the Government Advocate, who in his letter dated 28.07.2022, stated that the same was done so inadvertently.

12. What can be gleaned from the report, on the facts as placed above, is that, the entire dispute had arisen from the time that Shri. Nurul Amin, claimed that he was the duly appointed Language Teacher

and not Smti. Nazila Begum, and further, that being the founder teacher, was the Head Teacher and not Smti. Shobuza Begum. This Court, has thoroughly examined the enquiry report dated 21.07.2023, and all the supporting documents which have been annexed to the said report, on which the findings have been rendered. The findings concisely put are as below:-

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- (i) The root of the problem of the Khetadhowa SSA UP School, is because of the claim made by Shri. Nurul Amin, that he is the Head Teacher, being a founder Teacher, and that he is also the Language Teacher. This controversy came about, on account of the new NCTE norms, that they could be only one teacher each for Language, Social Science and Mathematics.
- (ii) When Smti. Nazila Begum, was appointed as a Language Teacher, and Smti. Shobuza Begum, as Science and Mathematics Teacher in 2010, Shri. Nurul Amin, never raised any grievance at that stage, and in fact, on merits has no case, as he was never appointed against the sanctioned posts.
- (iii) It is evident from the circumstances, that Shri. Nurul Amin, became active after the illegal approval order was

granted by the then I/c Joint DMC, Shri. T.S. Sangma, and when subsequently Smti. Ela Begum Laskar, occupied the said post. He never responded to the enquiry to seek to establish his position.

(iv) That Shri. Nurul Amin, allegedly was found to be embezzling SSA funds, and never took any steps to reply to the allegations and rather than reply chose to challenge the authority of the official, who had instituted the enquiry, which raised sufficient suspicion, as to his acts of commission and omission. The matter is all the more serious, as Nurul Amin, had even submitted fake documents to substantiate his claims.

(v) Shri. Nurul Amin, failed to acquire the required qualification, to fulfill NCTE norms, and at that time, when the 3 teachers, were appointed against the sanctioned post namely Shobuza Begum, Abdul Rafique and Nazila Begum, he had attended the Managing Committed meeting held on 03.05.2015, and as a participant of the proceedings, was therefore party to all the decisions taken.

- (vi) From the records submitted, Shri. Nurul Amin, attended his duties in the school w.e.f. his date of joining from 05.03.2010 to June, 2017, and remained absent from his duty from July 2017 to 8th February, 2022, whereafter, he was terminated from service on 09.02.2021, no reply was given by him nor the charges rebutted.
- (vii) During the period, Shri. Nurul Amin, was the convener member, the salaries of Shobuza Begum and Nazila Begum were deducted in an unauthorized manner, which led them to file writ petitions before the High Court, which resulted in a situation, where salaries have not been paid to teachers, who are regularly attending to their duties in the school.
- (viii) With regard to the role of officials in the Education Department in complicating the matters, the role of Smti. Ela Begum Laskar, in her capacity as Joint DMC and DMC, is questionable, as she has passed many arbitrary orders favouring Shri. Nurul Amin, and also her enquiry reports, appear to be suspect and not in order. In the enquiry, she accepted that it was difficult for her to

understand the rules. It is further remarked in the enquiry report that, Smti. Ela Begum Laskar may be cautioned.

13. Apart from the findings indicated above, the report has also noted serious areas of concern that need to be addressed, such as, the manner of functioning of the Managing Committee and also the manner and method of selection and appointment of teachers.

14. The Commissioner and Secretary, Education Department Government of Meghalaya, Shri. P. Bakshi, IAS, as also his predecessor, Dr. B.D.R. Tiwari, it is noted, in the conduct of enquiry on several dates, had summoned all the stake holders, in the several cases that had been filed before this Court and they were also examined in person, apart from being allowed opportunity of being heard and also for submission of any final relevant documents. Relevant documents had been submitted including originals for the purpose of enquiry, which was relied upon, as also the submissions and statements made by all the teachers of the school, Head Teacher, members and Chairman of the School Managing Committee, officials of the Education Department and other litigant parties. School attendance registers, reports of earlier enquiries, conducted at various levels had also been examined, and as recorded on 22nd June, 2023, all litigants and concerned parties had

made further statements, in addition to the earlier statements and documents apart from being subject to cross-examination on the submissions. In the considered view of this Court, the enquiry had arrived at the findings, as recorded in the report in a fair and transparent manner, wherein all the parties concerned were afforded adequate opportunity. In these circumstances therefore, the report is accepted in its totality, as also the suggestions given therein to finally give a quietus to the disputes in Khetadhowa SSA UP School, and to bring to a closure all the pending writ petitions before this Court, concerning the present dispute.

15. As such, without lingering or dwelling any longer, on the facts, claims and counter claims of the parties individually, in these batch of writ petitions, the same are disposed of with the following directions:

- (i) As Shri. Nurul Amin, has been found not to be a teacher, occupying a sanctioned post, and terminated from service on 9th February, 2021, as per the Resolution of the same date, and further having indulged in disruptive activities such as, filing of fabricated documents, which has dislocated the functioning of the school as recorded in the report, appropriate action as per relevant rules and in accordance with law, both civil and criminal shall be

initiated against him, both by the Managing Committee, as well as, by the District School Education Officer, West Garo Hills, within a period of 8(eight) weeks, from the date of this order.

- (ii) Smti. Ela Begum Laskar, in her capacity as Joint DMC and DMC, having acted in a manner, which is prejudicial and damaging to the school, and the office she occupied, appropriate disciplinary proceedings shall be drawn up against her by the Director of School Education & Literacy, Government of Meghalaya, Shillong.
- (iii) As 3 teachers namely, Shobuza Begum, Shri. Abdul Rafique and Smti. Nazila Begum, are the rightful sanctioned teachers of Khetadhowa SSA UP School, all outstanding salaries and benefits is to be released to them immediately by the School Managing Committee.
- (iv) As the RTE norms are in place, the Managing Committee shall be constituted as per the said norms to be re-constituted every 2(two) years comprising of 75% of the members, from amongst parents or guardians of children studying in the school and 25% from elected

members of the local authority, teachers of the school and local educationists.

- (v) All vacancies are to be compulsorily advertised by the School Managing Committee and eligible candidates be selected by way of test and interview.

16. Accordingly, as per the discussions and as ordered herein above, these writ petitions stand closed and disposed of.

17. The report dated 21.07.2023, is made part of the records.

18. A copy of this order to be furnished to Mr. H. Abraham, learned GA for necessary action.



Chief Justice (Acting)

Meghalaya
24.11.2023
"D.Thabab-PS"