

GAHC010155662025



2025:GAU-AS:12619

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

Case No. : WP(C)/4188/2025

MASTER REHAN BARAI
REPRESENTED THROUGH FATHER MR. KARTIK BARAI, RESIDENT OF H.
NO. 14, REHABARI, BILPAR, GUWAHATU -781008.

2: MASTER ISHAN BARAI
REPRESENTED THROUGH FATHER MR. KARTIK BARAI
RESIDENT OF H. NO. 14
REHABARI
BILPAR
GUWAHATU - 781008

VERSUS

THE STATE OF ASSAM AND OTHERS
REPRESENTED BY THE COMMISSIONER AND SECRETARY GOVERNMENT
OF ASSAM, DISPUR, GUWAHATI, PIN - 781006, DISTRICT - KAMRUP (M),
ASSAM.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
PIN - 781019
DISTRICT - KAMRUP (M)
ASSAM.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KAMRUP (M)
K.C. ROAD
ATHGAON
GUWAHATI
PIN - 781001
DISTRICT - KAMRUP (M)
ASSAM.

4:HAPPY CHILD HIGH SCHOOL
REPRESENTED BY ITS PRINCIPAL
REHABARI
GUWAHATI
PIN 781008
DISTRICT - KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. M SARMA,

Advocate for the Respondent : SC, ELEM. EDU, MR. B SHARMA (R-4)

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 15.09.2025

Heard Mr. M. Sarma, learned counsel appearing for the petitioners. Also heard Mr. B. Sarma, learned counsel appearing for the respondent No.4 (for respondent school) and Mr. B. Talukdar, learned standing counsel appearing for the Elementary Education Department (respondent Nos. 1, 2 and 3).

2. By way of this instant petition under Article 226 of the Constitution of India, the petitioners are seeking direction, inter-alia, to the effect of providing free education to the petitioners in the respondent school by not insisting on fees towards books, uniform, or any other head.

3. The case of the petitioners is that since the parents of the petitioners, who are seeking admission to Class-KG and Class-III, respectively, are not in a position to secure the free admission of the petitioners, applications thereof were submitted before the respondent

school in terms of Section 12(1)(c) of the Right of Children to Free and Compulsory Education Act, 2009, read with Rules 7 and 8 of the State Rules of Assam Right of Children to Free and Compulsory Education Act, 2011, read with Office Memorandum PMA 73/2021/47 by the Elementary Education Department, Government of Assam.

4. It is the specific case of the petitioners that the respondent school though allowed admission to the two petitioners in the classes in question by not taking any admission fees from their parents, however, the school authorities insisted upon the fees for the books for the aforesaid academic year for the classes in question as well as for their uniforms. Since their parents were not in a position to purchase the said list of books and their school uniforms, the petitioners are not allowed to attend the regular classes from the beginning of the session till date.

5. Today, when the matter is called, Mr. B. Sarma, learned counsel appearing for the respondent No.4 (respondent school), submits that he has specific instructions from the respondent school that the fees towards books and uniforms shall not be insisted upon the petitioners and the same shall be provided by the respondent school to the petitioners, which shall be reimbursed from the state respondent in accordance with subsection 2 of Section 12 of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as 'the said Act')

6. Apt to refer to subsection 2 of Section 12 of the said Act, which reads as hereunder:

“(2) The school specified in sub-clause (iv) of clause (n) of Section 2 providing free and compulsory elementary education as specified in clause (c) of sub-section (1) shall be reimbursed expenditure so incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less, in such manner as may be prescribed:

Provided that such reimbursement shall not exceed per-child-expenditure incurred by a school specified in sub-clause (i) of clause (n) of Section 2:

Provided further that where such school is already under obligation to provide free education to a specified number of children on account of if having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled for reimbursement to the extent of such obligation.”

7. Reading the aforesaid subsection 2 of Section 12 of the said Act, it is apparent that if the concerned school provides free and compulsory elementary education, the same shall be reimbursed for the expenditure so incurred by it to the extent of per-child-expenditure incurred by the state or the actual amount charged from the child, whichever is less, in such manner as may be prescribed.

8. Having heard the learned counsel appearing for the parties and in view of the consensus arrived at between the parties, I am of the considered view that this writ petition can be disposed of, in the interest of justice, by directing the respondent school to provide the free education to the petitioners including free books and uniforms etc. as per Section 12 of the said Act read with relevant rules and office memorandum as applicable.

9. It is further provided that the respondent state shall, reimburse the expenditure so incurred for providing free education to the

petitioners by the respondent school as per the provision of subsection 2 of Section 12 of the said Act, if so applicable.

10. It is needless to be clarified that since due to the lapses of the respondent school in providing free education to the petitioners as per the provision of the said Act, the petitioners have missed their classes from the beginning of the academic session for the classes in question which commenced in the month of April, 2025, the remedial classes as necessary shall also be provided to the petitioners by the respondent school.

11. With the above observations and directions, this writ petition stands allowed and disposed of.

JUDGE

Comparing Assistant