Ramani Bhargave Vs State of Assam and Ors.

Court: Gauhati High Court

Date of Decision: Aug. 18, 1993

Acts Referred: Constitution of India, 1950 â€" Article 226, 226

Citation: (1994) 1 GLJ 267

Hon'ble Judges: J.N.Sarma, J

Bench: Single Bench

Advocate: S.K.Kejriwal, P.Choudhary, M.Hazarika, A.K.Bhattacharjee, A.Das Gupta, Advocates appearing for Parties

Judgement

1. This Civil Rule has been filed by Smti Ramaai Bhargave, Assistant Head Mistress of Hindi Girls High School, Tinsukia and by Hindi Girls High

School Sikshak Aru Karmachari Unit, represented by its Secretary Miss Bond Goswami, Tinsukia. Respondents are : (I) State of Assam, (2)

Inspector of Schools, Tinsukia, (3) Director of Secondary Education, Assam, (4) Hindi High School Society, Tinsukia and (5) Managing

Committee, Tinsukia Girls High School, Tinsukia. The prayers are :

1. To quash the letters dated 2.1.92 and 29.7.92 (Annexure C and H) to the writ application.

2. Or declaration that the school in question is a provincialised school in terms of notification dated 16.11 91 (Annexure A).

3. To give benefit to the petitioners of the provincialisation scheme with effect from 19.11.91.

2. The brief facts are as follows : The Hindi Girls High School, Tinsukia was established in the year 1963 on a plot of land given by the State of

Assam in the heart of town. The school was constructed out of donations from the public at large from Tinsukia town and it was not constructed

out of the contributions from any linguistic minority. The school received grants in aid from the State of Assam from time to time. The school does

not belong to any linguistic minority.

3. On 13.11.78 the school was recognised by the State of Assam. The Director of Secondary Education, respondent No. 3 on 10.10.91 issued a

circular to all the Inspector of Schools throughout the State dissolving all the Managing Committees including the Managing Committee of the

present school. The present Managing Committee of the school (respondent No. 5) does not have any authority to interfere with the function of the

school as no Managing Committee of the school was formed with the approval of the Inspector of Schools after 10.10.91.

4. On 16.11.91 the Governor of Assam was pleased to provincialise 575 schools throughout the State for providing better service conditions to

the teaching and non teaching staff and also for better education and also for providing free education, free supply of text books as per mandate of

Article 45 of the Constitution of India. The list of the 575 schools including the present school were published in Assam Tribune on 19.11.91. The

respondent No. 4 ie Hindi High School Society, Tinsukia, riled a writ petition being Civil Rule No. 4605 of 1991 before this Court challenging the

validity of sections 3 and 5 of the Assam Secondary Education (Provincialisation) Act, 1979 and Rule 9 of the Assam Secondary Education

(Provincialisation) (Service and Conduct) Rules, 1979. The Court issued rule with an interim order that meanwhile the school will not be taken

over by (he State.

5. On 2.1.92 the Deputy Secretary, Education Department in pursuance to the order dated 22.11.91 passed by the Hon"ble High Court issued

the order that 4 (four) schools including the present school were exempted and dropped from the scheme of provincialisation. In fact, 3 (three)

other schools mentioned therein were not covered by the order dated 22.11.91 in Civil Rule No. 4605 of 1991. The Deputy Secretary, Education

Department, realising the mistake superseded this letter dated 2.1,92 by another letter dated 26.3.92. In this letter dated 26.3.92 it was stated that

the provincialisation of Hindi Girls High School, Tinsukia be stayed in view of the Hon"ble High Court"s Order dated 22.11.92 passed in Civil

Rule No. 4605 of 1991 and not exempted and dropped as stated in letter dated 2.1.92. This letter dated 26.3.92 is at Annexure D to the writ

application. The same reads as follows :

In partial modification of Govt. letter No. cited above, I am directed to say that provincialisation of Hindi Girls High School, Tinsukia, be stayed in

view of Hon"ble High Court"s order dated 22.11.91 passed in Civil Rule No. 4605 of 1991"".

6. After obtaining the stay order of this Court, the respondent No. 5 (Managing Committee of the school) started harassing the teachers and staffs

by instituting false criminal cases under section 144 CrPC against them which was subsequently staged by this Court. The services of the Head

Master after 28 years of service along with some other teachers were terminated by publishing in newspaper. On 17.7.92 the teachers and staff

filed a writ petition being Civil Rule No. 1420 of 1992 challenging the illegal termination order. The Court was pleased to issue Rule and stayed the

termination orders. Thereafter the present petitioner filed an application in Civil Rule No. 4605 of 1991 for being impleaded and for modification of

the order dated 22.11.91. In the mean time on 29.7.92 Sri R. Ahmed, Deputy Secretary, Education Department has issued the letters stating that

the school is already exempted in view of the letter dated 2.1.92 based on the representation dated 14.3.92 and 29.7.92 of respondent No. 5. In

this letter dated 28.3.92, Annexure D to the present writ application, was not considered. This letter dated 29.7.92 is Annexure H to the writ

application and the same reads as follows :

With reference to the above, I am directed to say that the Hindi Girls High School, Tinsukia has already been exempted from the purview of the

provincialisation under cover of this Department"s letter dated 2.1.92 and the said order is still in force.

7. This letter did not mention the subsequent letter Annexure D which stated that the provincialisation was stayed in view of the Hon"ble High

Court"s order dated 22.11.91. On 12.8.92 the respondent No. 4 withdrew Civil Rule No. 4805 of 1991 and it is contended that as a result of this

withdrawal the interim order dated 22.11.91 was no longer in existence and the school became a provincialised school as it was included in the list

published on 19.11.91 vide order of the Governor of Assam dated 16.11.91 and that order was stayed by Annexure D in view of the pendency of

Civil Rule No. 4605 of 1991. The respondent Nos. 4 and 5 moved an application fox vacating the interim order dated 17.7.92 passed in Civil

Rule No. 1420 of 1992. On the basis of the letter dated 29.7.92 claiming that it was a private unaided school and that writ application was not

maintainable. The matter regarding the prayer for vacating the stay order was heard, in this Civil Rule No.1727 of 1992 this Court was pleased to

pass an order for payment of salaries. On 17.9.92 the Court rejected the application of respondent Nos. 4 and 5 to vacate the earlier order and

also was pleased to reject their pleas regarding the non maintainability of the writ petition. Tins Court directed the respondent No. 4 and 5 to pay

the arrear salaries to the petitioners since November, 1991 without prejudice to the rights of the parties. This order was again reiterated vide order

dated 9.11.92 and directed the respondent No. 5 to pay the salaries of the petitioner since November, 1991 within 15 days. On 22.12.92 this

Court directed that the respondent No. 5 shall deposit the salaries of the petitioner with the District Judge, Tinsukia, within 2 weeks. After that the

District Judge will disburse the salaries of the petitioner. All these orders passed by this Court have been willfully flouted by the respondent Nos. 4

and 5. On 7.1.93 also Sri BK Agarwal who claimed to be the Joint Secretary of respondent No. 5 issued a notice closing down the school. It is

contended by the petitioner that this was done without any authority. On 16.2.93 this Court called for report from the District Judge, Tinsukia

regarding the payment of salaries to the teachers. Accordingly, the District Judge submitted his report to this Court. In the meantime one of the

guardians of the student filed a writ petition before this Court in a representative capacity being Civil Rule No. 399 of 1993 challenging the closing

down of the school by persons without any authority. That Civil Rule is still pending and on 30.4.93 the Director of Secondary Education

personally appeared in the Court. She prayed for to inform the Court about the latest petition of the disputes. These 3 (three) Civil Rules were

placed for order on 3.7.93 and as prayed for, three matters were listed to come on 5.7.93. Thereafter all these three matters were heard together

on 7.7.93. In Civil Rule No. 393 of 1993 the matter was agitated mainly relying on Unnikrishnan vs. State of Andhra Pradesh & others, (1993) 1

SCC 645 with the prayers : (1) to issue a writ of Mandamus to provincialise the school in view of the withdrawal of Civil Rule No. 4605 of 1991,

(2) that the members of the dissolved Managing Committee or any one are not entitled to demand any type of fees from the students of the said

school, (3) to do the needful to enable the students to pursue their studies in a smooth manner without any hindrance from any quarter. As per

order of this Court, the respondent No. 3 ie Smti Tilatama Baruah, Director of Secondary Education, Assam, Kahilipara, personally appeared

before the Court. The respondent No. 3 prayed for 3 weeks time to inform the Court about the latest position of the dispute but thereafter nothing

was done. Thereafter the respondent No. 5 ie the Managing Committee, Tinsukia Girls High School put locks in the main gate of the building and

brought police force to the said building. The teachers are taking their classes regularly in the open field by putting plastic sheets as roof and tae

students sat on the ground to attend their classes. The teachers have conducted the half yearly examination in June, 1993 in Tinsukia College after

obtaining permission from the Inspector of Schools. An affidavitinopposition has been filed by respondent Nos. 4 and 5. That affidavitinopposition

has been verified by one Sri Basant Kumar Agarwalla claiming himself to be a Joint Secretary of respondent Nos. 4 and 5, Their contentions are

as follows :

1. The school was constructed out of the donations, contributions and untiring efforts of the members of the respondent No. 4 which is a linguistic

minority association. The respondent No. 4 did not get any aid nor it took any donations from the public at large of Tinsukia town. The respondent

No. 4 did not receive any grants in aid from respondent No. 1 for the purpose of construction and setting up the school.

2. The respondent No. 1 revised his decision to provincialise the school and exempted the school from the scheme of provincialisation.

3. The teachers and the other members of the office staff are not entitled to any benefit of provincialisation.

4. The allegations of causing harassment by filing false civil and criminal cases are denied.

5. The illegal and irresponsible acts of the teachers and the Head

Master brought chaos to the school and the Management had no other option but to file a civil suit restraining the teaching and non teaching staff of

the school from interfering with the Managing Committee and its office bearers in the performance of their duties relating to the administration of the

school.

6. The criminal cases have to be filed in order to protect the atmosphere of the school and for the best interest of the students.

7. The grantsinaid amounting to Rs.1,200/ was accepted only once and that too long back in the year 1976 and thereafter the Managing

Committee decided not to take any Govt. aid.

8. Section 7 of the Provincialisation Act, 1977 empowers the State Govt. to provincialise the services of the employees of other school not falling

within the purview of this Act as the State Govt. did not make specific Rules for the provincialisation of the services of the employees of such

school and published the same by notification in Official Gazette of the State is not authorised to act on the strength of section 7 of the Act of 1977

also.

8. An affidavitinreply has been filed to this affidavitinopposition. I have heard Sri P. Choudhury, Advocate for the petitioner. Sri SN Bhuyan,

learned Advocate General for the respondent Nos. 1, 2 and 3 and Sri AK Bhattacharjee for respondent Nos. 4 and 5. The contentions of Sri

Choudhury are as follows :

1. That the school in question is a provincialised one and appropriate declaration be made for the same.

2. Protection under Article 30 of the Constitution of India is not available to respondent No. 4.

3. The teachers and the other members of the office staff are entitled to benefit of the provincialisation school with effect from 19.11.91.

9. On the other hand, Sri SN Bhuyan submits as follows :

1. That the Hindi Girls High School, Tinsukia is not a Govt. Aided High School.

2. The Hindi Girls High School, Tinsukia has already been exempted from the provincialisation system vide Govt. letter dated 6.8.92 and the

position remained unchanged and there is no plan to provincialise the school. Sri Bhuyan submitted that it was the instruction which he received

from the Deputy Secretary, Govt. of Assam, Education Department, vide letter dated 17tb June, 1993 addressed to a Senior Govt. Advocate,

Assam Gauhati High Court. A copy of which was placed before the Court.

3. Sri Bhuyan also placed before the Court a letter dated 6.8.92 from the Deputy Secretary, Govt. of Assam Education Department by which

exemption was granted to the different schools from the purview of provincialisation and the school in question was included in the list.

4. Sri Bhuyan further submitted that respondent Nos.4 and 5 are private persons and no writ lies against them. He further submitted that the

decision of the authority to exempt the school from provincialisation is not justifiable.

10. For all these he submitted that the petitioners are not entitled to any relief. Sri AK Bhattacharjee adopted the submission made by Sri Bhuyan.

11. A perusal of the documents will show that school in question received grant in aid in the year 197879 which will be evident from letter dated

26.9.80 written by the Head Master of the school to the Inspector of Schools. The letter reads as follows : ""With reference to your memo dated

27.8.80 I am submitting herewith the detail particulars of non Govt. Secondary Schools for deficit grant for the year 197879 as per proforma

attached"". The proforma attached shows the name of the school and it shows that the school is recognised but unaided. It shows the number of the

students and it also included a certificate to the following fact :

Certified that a sum of Rs. 4,068/ a fee compensation account for the students of all faculties from Class V to VIII is sanctioned by the Inspector

of School, Dibrugarh vide memo dated 12th October, 1976 has been deposited in the school account as we are not realising the tuition fees from

Class V to VITI.

12. The form of acceptance of all ad hoc recurring grant and other under Assam Grant In Aid Code was also signed by the members of the

Managing Committee including the President, Joint Secretary and others. The letter dated 12.2.76 also shows that ad hoc recurring grant was

received by the school and by this letter a prayer was made to increase it and to take the school under deficit system in order to enable the

authority to run the school properly. Thereafter ad hoc grants were received for subsequent years but it is not known when it was stopped.

13. Section 7 of the Assam Secondary Education (Provincialisation) Act, 1977 provides as follows ;

The State Govt. may by notification published in the Official Gazette make such Rules as may be necessary for provincialisation of the service of

employees of other schools not falling within the purview of this Act.""

14. The Act of 1977 applied to all the Secondary Education Schools covered by the deficit scheme of the Govt. of Assam which are

provincialised. Deficit schools are defined by section 2 (iii), a deficit school means a school receiving grants from the State Govt. under the deficit

scheme of grants in aid. Section 2 (ii) defines Secondary School as a deficit school where the secondary education is implied.

15. Assam Education Rules and Order provides for the management of the schools and Chapter II which provides for general administration of the

schools. Section 3 provides for recognition of school. Rule 6 (b) provides that the school is under the management of a regularly constituted

committee on which the teaching staff, is represented. Section 14 provides that all recognised higher, middle school shall be governed by the

management in accordance with Rule 6 (b) and of section 3.

16. The thrust of the argument of the respondent is that the school of the petitioner is not an aided school and as such does not come under the

control of the authority i.e. the State of Assam and it is further submitted that the petition is not maintainable and no relief can be granted in the writ

jurisdiction. The question regarding the right of the linguistic minorities to administer the educational institutions came up for consideration in AIR

1974 Supreme Court 1389 The Ahamedabad Saint Xavier College Society & others vs. The State of Gujarat). In that case in the majority

judgment in paragraphs 20, 30, 32 and 51 the Supreme Court pointed out as follows :

The right conferred on the religious and linguistic minorities to administer the educational institutions of their choice is not an absolute right. This

right is not free from regulation. Just as regulatory measures are necessary for maintaining the educational character and contained all minority

institutions. Similarly, regulatory measures are necessary for ensuring smooth, efficient and neat administration. The right to administer is not the

right to maladministration. The appointment of teachers is an important part in the educational institutions. The qualification and the character of the

teachers are really important. The right of minority institutions to administer the institution implies an obligation and duty of the minority institutions

to render the very base to the students. In the light of administration, and plans in the shape of regulatory measures are required to ensure the

appointment of good teachers and their conditions of service. Regulation are therefore, necessary to see that there are no divisive or disintegrating

forces in the administration.

17. It was further pointed out by the Supreme Court as follows :

Regulations which will serve the interest of the students, regulation which will serve the interest of teachers are of paramount importance in good

administration. Regulations in the interest of efficiency of teachers, discipline and fairness in the administration are necessary for preserving harmony

among the affiliated institutions regulations are, therefore, necessary to see that there are no divisive or disintegrating forces in administration.

18. Even in the judgments of the Judges differing from majority on some of the aspect that the matter under consideration did not deviate from this

fundamental principles laid down by the majority. In AIR 1979 SC 83 (RT Rev. Major Mark Netto vs. Govt. of Kerala) the Supreme Court

referring to its earlier decision pointed out as follows ;

""The State may also regulate the conditions of employment of teachers ... yet the right of the State to regulate education, educational standard and

allied matters cannot be denied . while the Management must be left to them, they may be compelled to keep in steps with others.

19. In (1980) 2 SCC 478 (All Saints High School Hyderabad & others vs. Govt. of Andhra Pradesh & others) the Supreme Court was

considering the Andhra Pradesh Recognised Private Educational Institutions (Control) Act of 1975. By this Act a provision was made that

termination simpliciter of the services of any teacher of such a private institutions is subject to the approval of the competent authority. The

Supreme Court found that the measures which were regulatory in nature are valid. The Supreme Court in that case was considering the regulatory

measures regarding the service conditions and providing security of services and for preventing the teachers from being punished on flimsy ground.

Fazal Ali, J has delivered a dissenting judgment but Chandrachud, CJ and Kailashan, J delivered the majority judgment.

20. In (1993) 1 SCC 645 (Unnikrishnan JP & others vs. State of Andhra Pradesh) again question regarding running of private unaided affiliated

educational institutions came up for consideration and the Supreme Court considered the case of private educational institutions and the Supreme

Court pointed out as follows :

The Supreme Court in that case was considering whether the writ will lie against such an institution. The Supreme Court pointed out interalia as

follows:

1. As a sequel to this an important question arises is that what is the nature of functions discharged by these institutions ? They discharge a public

duty if a students desires to acquire a degree for example, in medicine we will haw to route through a medical college. These medical college are

the instrument to attain the qualification. If, therefore what is discharged by the educational institutions is a public duty, that requires duty to act

fairly. In such a case it will be subject to Article 14.

2. The Supreme Court in that case relied on Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust &

others vs. VR Rudani & others and paragraph 17 of that judgment was quoted. Paragraph 17 of that judgment reads as follows :

There, however, the prerogative writ of Mandamus is confined only to public authorities to compel performance of public duty. The ''public

authority'' for them mean every body which is created by statute and whose powers and duties are defined by statute. So government departments,

local authorities police authorities, and statutory undertakings and corporations, are all ''public authorities''. But there is no such limitation for our

High Courts to issue the writ in the nature of Mandamus. Article 226 confers wide powers on the High Courts to issue writs in the mature of

prerogative writs. This is a striking departure from the English law. Under Article 226 writs can be issued to ''any person or authority.'' It can be

issued for the enforcement of any of the fundamental rights and for any other purpose."" Paragraph 20 of that judgment reads as follows :

Ã¯Â¿Â½The term ''authority'' used in Article 226, in the context, must receive a liberal meaning unlike the term in Article 12. Article 12 is relevant only

for the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for

enforcement of the fundamental rights as well as nonfundamental rights. The words ""any person or authority"" used in Article 226 are, therefore, not

to be confined only to statutory authorities and instrumentalities of the State They may cover any other person or body performing public duty. The

form on the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in

the light of positive obligation owed by the person or authority to the affected party. No matter by what means the duty is imposed, if positive

obligation exists Mandamus cannot be denied.

21. In the case of Unoikrishoan the Supreme Court decided as follows : ""The emphasis in this case is as to the nature of duty impose 1 on the

body. it requires to be observed that the meaning of authority under Article 226 came to be laid down distinguishing the same term from Article 12.

In spite of that if the emphasis is in the nature of duty on the same principle, it has to be held that these educational institutions discharge public

duties. Irrespective of the educational institutions receiving aid it should be held that it is a public duty. The absence of aid does not detract from the

nature of duty.

22. The Supreme Court in this judgment further pointed out as follows : ""However an amount of caution requires to be uttered.Not all the private

institutions belong to this category. There are institutions which are attaining good reputation by devotion and by nurturing high educational

standard. They surpass the colleges runned by the Govt. in many respects. They require encouragement. From this point of view regulatory

controls have to be continued and strengthened. The commercialisation of education, the racketeering must be prevented. The consideration should

strike with its utmost in this direction... ...it cannot be gain said that with profiteering is an end if a public utility like electricity could be controlled,

certainly, the professional colleges also requires to be regulated.

The Supreme Court in the judgment further pointed as follows :

The private educational institutions merely supplement the effort of the State in educating the people. It is not an unattaining activity. It is an activity

supplement to the principal activity carried on by the State. No educational institution can survive or subsists without recognition and/or affiliation.

The bodies which grant recognition and/or affiliation are the authorities of the State. In such a situation it is obligatory in the interest of general

public upon the authority granting recognition or affiliation to insist upon such conditions as appropriate to ensure not only education of college

standard but also fairness and equal treatment in the nature of admissions of the students. Since the recognition/affiliating authority is the State, it is

under an obligation to impose such conditions as part of its duty and enjoined upon it by Article 14 of the Constitution. It cannot allow itself or its

power and privileges to be used unfairly. The instants touching the main activity are attached to supplemental activity as well as

affiliation/recognition is not there for anybody to get it grastis or unconditional, nor Govt. authority or University is justified or is entitled to make

recognition/affiliation without imposing such condition, Doing the so will amount to abdication of its obligation enjoined upon vide Part III. Such

activity is bound to be characterised as unconstitutional and illegal. To reiterate what applied to main activity, applies equally to supplemental

activities. The State cannot claim immunity from the obligations arising from Article 14 and 15. If so it cannot confer such immunity upon its

affiliates.

23. And in the light of the judgment in that case the Supreme Court in consultation framed the scheme. In the back drop of the law as stated

above, let us have a look at the present case.

24. The facts as stated above with regard to the present school will show that it is absolutely not conducive for proper education. In Civil Rule No.

393 of 1993 it b;)S been stated that the students are sought to be charged an exorbitant fees in the name of development fund, building fund, the

supply of free text books and free education by respondent Nos. 1 to 3 have been frustrated by respondent No. 6. There is no security of service

of the teachers. On 7.1.93, the following notification was issued by the Joint Secretary. In case of the nill admission the management is

contemplating the closing down of the school and the same may be effected from any day during the current month ie Annexure 3 to the writ

application. By Annexure 4 to the writ application dated 18.1,93 it was stated as follows :

Ã¯Â¿Â½As informed from time to time to all concerned the students of the school are not paying any fees etc. for the last more that one year. Under the

circumstances it is not possible for the Management to run the school any further. Therefore the Managing Committee has taken a decision with

heavy heart on its meeting held on 16.1.93 to close down the school from 25th of January, 1993, if all the students do not clear their dues by that

time and teachers cooperate..

25. Thereafter on 9th of February, 1993 the following notification was issued in the newspaper :

As notified earlier and as the students have failed to deposit their fees as requested, the Management regrets to announce the closure of the school

from the 9th February, 1993. Teaching and nonteaching staff are requested to collect their dues from the Secretary of the school at his

Chirwapatty office from 11.2.93 to 13.2.93 between 10.30 AM to 12.00 Noon. Students are also requested to collect their transfer certificates

from the Principal from 9 2.93 to 15.2.93 between 10. AM to 1 PM."" This is Annexure 5 to the writ application.

26. All these facts will show that the school which was established in the year 1963 on a plot of land given by the State Govt. in the heart of

Tinsukia town was closed after 30 years and that also because of the fight between the Management and its teachers. This is really a serious matter

and the respondent Nos. 1 to 3 ie the State of Assam, Inspector of Schools and Director of Secondary Education, Assam cannot be silent

spectators to this. The State has its obligation to protect its citizen and I find that the State gave land for the construction of the school at some

point of time Govt. gave the grants in aid to the school but is not known why this was stopped to bring the school to its present state of affairs and

it is in the interest of the institution and the public in genera) that the State should do the needful and I direct as follows :

1. The respondent Nos. 1, 2 and 3 ie State of Assam, Inspector of Schools, Tinsukia District Circle and Director of Secondary Education, Assam

will consider whether under the facts and circumstances of the case the school in question ie Hindi Girls School, Tinsukia, should be provincialised

under the provisions of Assam Secondary Education (Provincialisation) Act, 1977 by taking into consideration all the factors of the school.

2. In the alternative if the school is not decided to be provincialised the authority ie respondent Nos. 1 to 3 as a condition for granting recognition

to the school will frame scheme to provide (a) the Management of the school by constituting a proper Managing Committee in accordance with the

Rules and laws applicable to such a school, (b) Regulate the admissions in the school and the conditions of service of the teachers in the school, (c)

The rate/fees to be charged from the students by the school authority, (d) Any other matters which may be deemed to be proper and necessary by

the authority for the smooth management and administration of the school, (e) All these things will be done within a period of 3 (three) months from

today and initiative for the same will be taken by respondent No. 3 ie Director of Secondary Education.

3. The school which was closed by notification dated 9.2.93, Annexure 5 to the writ application No. 393, shall be immediately opened at its

original place and the authority will take necessary steps to run the school for the interest of the students. If the authority finds that it is not possible

to open the school during the current session the authority will take necessary steps to open the school from the next session and will take steps to

manage the same in accordance with Rules and laws.

4. It is high time that the authority, in order not to give arbitrary and unlimited powers to the private schools, should immediately frame a scheme

applicable to all the schools regarding the method of admissions of the students and the service conditions of the teachers and the other allied

matters like realisation of fees so that these anomalies also may come to an end.

27. In the instant case if the Govt. considers it necessary to protect the service of the teachers, it may do so by issuing necessary notification under

section 7 of the Assam Secondary Education (Provincialisation) Act, 1977.

28. It appears that because of the fight between the Management and its teachers and employees, the students have suffered a lot in the process

and the teachers and the employees have also suffered a lot.

29 I hope and trust that the teacher and employees will render due cooperation to the Management in the smooth running of the institutions.

30. Thus this writ application is disposed of. Civil Rule No. 393 of 1993 is disposed of with the direction as given above. It is made clear that an

attempt will be made to pay the salaries of the teachers and the employees by the respondents including respondent Nos. 4 and 5 ; Civil Rule No.

1727 of 1992) if these teachers and employees are really working. Already in the other Civil Rule ie in Civil Rule No. 1420 of 1992, I have set

aside the so called termination order of certain teachers and employees.

I leave the parties to bear their own cost.