

GAHC010034912023



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

Case No. : WP(C)/1026/2023

ANUPAMA DEVI

W/O- SRI. BASANTA KUMAR SARMA, R/O- NIZ JULUKI, BARAMA, MOUJA-
NAMATI, DIST.- BAKSA (ASSAM)

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE SECY. TO THE GOVT. OF ASSAM, SCHOOL EDUCATION
DEPTT., DISPUR, GHY-06

2:THE SECRETARY
EDUCATION DEPTT.
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR

3:THE DIRECTOR OF EDUCATION
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
PIN- 783370

4:THE INSPECTOR OF SCHOOLS
BAKSA
DISTRICT CIRCLE
MUSHALPUR
PIN- 781372

5:SRI. BHARAT CHANDRA TALUKDAR
PRINCIPAL
BARAMA HIGHER SECONDARY SCHOOL
BARAMA
DIST.- BAKSA
ASSAM
PIN- 78134

Advocate for the Petitioner : MR. S K GOSWAMI

Advocate for the Respondent : SC, SEC. EDU.

Linked Case : WP(C)/337/2021

ANUPAMA DEVI
W/O BASANTA KUMAR SARMA
R/O NIZ JULUKI
BARAMA
MOUJA NAMATI
DIST BAKSA (ASSAM) 781346

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
EDUCATION SECONDARY DEPARTMENT
DISPUR GUWAHATI 6

2:DIRECTOR OF EDUCATION
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
3:GAUHATI UNIVERSITY
REPRESENTED BY THE VICE CHANCELLOR
GAUHATI UNIVERSITY
JALULKBARI
GUWAHATI 14
ASSAM

4:NATIONAL COUNCIL OF TEACHERS EDUCATION
REGIONAL DIRECTOR OF NCTE
BHUBANESWAR
NEEL KANTH NAGAR
NAYAPALLI
ORISSA
751012

5:THE PRINCIPAL
SDP COLLEGE OF TEACHERS EDUCATION
TIHU
DIST NALBARI
ASSAM

6:SHRI BHARAT CHANDRA TALUKDAR
SUBJECT TEACHER
BARAMA HIGHER SECONDARY SCHOOL
BARAMA
DIST BAKSA ASSAM
781346

Advocate for : MR. S K GOSWAMI
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 5 ORS.

Linked Case : WP(C)/8277/2022

ANUPAMA DEVI
W/O- BASANTA KUMAR SARMA R/O- NIZ JULUKI
BARAMA
MOUJA- NAMATI
DIST.- BAKSA (ASSAM)
PIN- 781346

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE SECY. TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPTT.
DISPUR
GHY-06

2:THE SECRETARY
EDUCATION DEPTT.
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
PIN- 78370

3:THE DIRECTOR OF EDUCATION
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
PIN- 783370

4:THE COUNCIL LEVEL SELECTION BOARD
FOR SELECTION OF PRINCIPAL OF BARAMA H.S. SCHOOL
REP. BY ITS MEMBER SECRETARY-CUM- THE INSPECTOR OF SCHOOLS
BAKSA DISTRICT CIRCLE
MUSHALPUR
PIN- 781372

5:SRI BHARAT CHANDRA TALUKDAR
PRINCIPAL

BARAMA HIGHER SECONDARY SCHOOL
BARAMA
DIST.- BAKSA
ASSAM
IN- 781346

Advocate for : MR. S K GOSWAMI
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 4 ORS

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

26.06.2023

O R D E R

Heard Mr. S.K. Goswami, learned counsel for the petitioner in all the writ petitions. Also heard Mr. S.M.T. Chistie, learned Standing Counsel, Secondary Education Department, Government of Assam; Mr. B. Choudhury, learned Standing Counsel, BTC; Mr. I. Alom, learned Standing Counsel, NCTE; Mr. P.J. Phukan, learned Standing Counsel, Gauhati University; Mr. B. Islam, learned counsel for the private respondent and Mr. P. Talukdar, learned counsel for SDP College of Teachers Education, Tihu.

- 2.** All these three writ petitions being inter-connected are disposed of by this common order.
- 3.** WP(C) 337/2021 has been filed by the writ petitioner challenging the B. Ed degree awarded to the private respondent, namely, Bharat Chandra Talukdar on the ground that B. Ed degree obtained by the private respondent is in violation of the NCTE Regulations and Norms.
- 4.** WP(C) 8277/2022 is filed by the writ petitioner challenging the appointment order dated 03.09.2022 of the private respondent as Principal of Barama Higher Secondary School, Baksa.
- 5.** WP(C) 1026/2023 is filed by the writ petitioner challenging the speaking order dated 18.09.2021 issued by the Director of Education, BTC, Kokrajhar by

which it is held that the private respondent, Bharat Ch. Talukdar, had obtained the B. Ed degree legitimately from the SDP College of Teachers Education, Tihu while discharging his duties as a Post Graduate Teacher (Subject Teacher) in Barama H.S. School.

6. The petitioner is presently working as Vice Principal of Barama Higher Secondary School in the district of Baksa. The private respondent obtained his B. Ed degree from SDP College of Teachers Education, Tihu during the year 2014-2015. It is the case of the petitioner that the private respondent had obtained his B. Ed degree without taking permission from the competent authority and also while working as a Post Graduate Teacher (Subject Teacher) in the said School.

7. The case of the petitioner is that the Government of Assam, Secondary Education Department issued an Office Memorandum dated 28th July, 2014 on the subject of deputation of teachers of Higher Secondary School and High School/High Madrassa to undergo B. Ed training and procedure thereof. Clause-6 prescribes that persons appointed in the post of Post-Graduate Teachers/Graduate Teachers in provincialised Higher Secondary and High School/High Madrassa with relaxation of professional qualification of B. Ed degree may pursue B. Ed degree from the B. Ed Colleges in the State, which have affiliation by the Gauhati University, Dibrugarh University and Assam University in the evening shift classes where normal classes of the schools are not hampered.

It further provides that the teachers, who desire to obtain B. Ed degree from such Colleges, may get admission with intimation to the respective Head of the Institution and the Inspector of Schools concerned.

8. The NCTE has filed affidavit in WP(C) No.337/2021 wherein it is stated that the *National Council for Teacher Education (Recognition, Norms and Procedure) Regulation, 2014* came into force on 28.03.2014 and the said Regulation lays down the norms and standards for B. Ed programme and all the B. Ed institutions shall follow the regulations while conducting B. Ed programme in their respective institutes. In terms of Appendix-4 of NCTE Regulations, 2014, the requisite working days shall be at least two hundred working days each year exclusive of the period of examination and admission and the institution shall work for a minimum of thirty six hours in a week (five or six days) during which physical presence in the institution of all the teachers and student teachers is necessary to ensure their availability for advice, guidelines, dialogue and consultation as and when needed. The minimum attendance of student-teachers shall have to be 80% for all course work and practicum, and 90% for school internship.

9. To a pointed query made by this Court to the learned counsel appearing for the Principal, SDP College of Teachers Education, Tihu as to whether the said institution provides night shift for imparting B. Ed degree, learned counsel submits that the said College does not have night shift classes and it conducts only day classes for imparting B. Ed degree.

10. This Court has also perused the report of the Inspector of Schools, Mushalpur, which was submitted to the Director of Education, BTC by communication dated 23.07.2021. A perusal of the same indicates that there is no record available of receiving such application in the office of the Inspector of Schools from the private respondent and there is no forwarding letter from the school authority of such application regarding permission for B. Ed study.

It is also reported that the application dated 09.01.2015 was applied alone to the Principal, Barama Higher Secondary School praying for permission to attend in Practice Teaching Classes of B. Ed and was allowed/permitted by the concerned Principal. However, the same was not informed to the office of the Inspector of Schools, BTC, Mushalpur. The report further stated that the application dated 24.08.2015 made to the Principal, Barama Higher Secondary School for special leave for a period of 10 days from 29.08.2015 to 21.09.2015 for appearing B. Ed examination and all other related papers was not received in the office of the Inspector of Schools, BTC, Mushalpur and the admission of the private respondent into B. Ed course was not informed to the said College. It further states that the private respondent was not admitted to B. Ed through proper channel.

11. In WP(C) No.337/2021 wherein the B. Ed degree awarded to the private respondent was put under challenge, this Court by order dated 12.03.2021, passed the following direction:-

“The petitioner Smti Anupama Devi is apprehensive that the respondent No.6 Sri Bharat Chandra Talukdar, who is also working as a Subject Teacher in the Barama Higher Secondary School would be taken into consideration by the respondent authorities when the process for selection for a regular Principal of the school would be undertaken. It is stated that there is already a direction of this Court to undertake the said selection process. The petitioner raises a contention that the respondent no.6 Sri Bharat Chandra Talukdar had undertaken his B.Ed course in the SDP College of Teachers Education at Tihu whereas he is a regular Subject Teacher in the Barama Higher Secondary School. As the location of the B.Ed College and the school where he is working are in two different places, an issue is raised as to how the respondent No.6 Sri Bharat Chandra Talukdar can undertake his B.Ed course and also discharge his duties as a Subject Teacher in the Barama Higher Secondary School.

The respondents have produced a communication dated 09.02.2021 from the Director of Education, BTC, which provides that due permission was given by the Barama Higher Secondary School to the respondent No.6 to pursue the B.Ed course at Tihu. It is difficult to comprehend as to what due permission is. Whether it implies that the respondent no.6 was granted leave for the purpose to undergo his B.Ed course or he was allowed to discharge his duties as a Subject Teacher in the school and undertake the B.Ed course.

On being prima-facie satisfied, considering the balance of convenience as well as the irreparable loss that the petitioner may suffer, in the interim, it is provided that in the event the selection process is undertaken for the post of regular Principal of Barama Higher Secondary School, the Director of Education, BTC shall take the aforesaid aspect into consideration and pass a reasoned order as to how the respondent No.6 Sri Bharat Chandra Talukdar had legitimately obtained his B.Ed degree while discharging his duties as a Subject Teacher of the Barama Higher Secondary School and the participation of Sri Bharat Chandra Talukdar be made subject to such order to be passed.”

Thereafter, the impugned order dated 18.09.2021 was passed by the Director of Education, BTC by declaring that the private respondent had legitimately obtained his B. Ed degree from SDP College of Teachers Education, Tihu.

12. A perusal of the order dated 18.09.2021 issued by the Director of Education, BTC would clearly indicate that the report of the Inspector of Schools, BTC, Mushalpur dated 23rd July, 2021 was not taken into account while passing the speaking order dated 18.09.2021. Therefore, in the fitness of things, this writ petition (WP(C) 337/2021) is disposed of by directing the Director of Education, BTC to reconsider the matter afresh as to whether the private respondent had legitimately obtained his B. Ed degree from the SDP College of Teachers Education, Tihu after taking into consideration the report of the Inspector of Schools, BTC, Mushalpur dated 23.07.2021 as well as the fact

that the SDP College of Teachers Education, Tihu does not have evening shift to impart B. Ed degree and also the Office Memorandum dated 28th July, 2014. Thereafter, Director of Education, BTC shall pass a reasoned order in accordance with law within a period of one month from the date of receipt of a copy of this order.

Consequently, the speaking order dated 18.09.2021 issued by the Director of Education, BTC is set aside and quashed.

13. All the writ petitions are, accordingly, disposed of.

JUDGE

Comparing Assistant