

GAHC010064872023



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

Case No. : WP(C)/1696/2023

JAINUL ABEDIN MAZARBHUIYA
S/O- LATE MAKADDAS ALI MAZARBHUIYA, R/O- HAILAKANDI TOWN,
WARD NO. 11, P.O. R.P. ROAD, P.S. AND DIST.- HAILAKANDI, ASSAM, PIN-
788155

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REP. BY COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF
SCHOOL EDUCATION, (SECONDARY EDUCATION), DISPUR, GHY-06

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE INSPECTOR OF SCHOOLS
HDC
HAILAKANDI
ASSAM

4:NATIONAL COUNCIL FOR TEACHER EDUCATION (NCTE)
NER
TO BE REP. BY ITS REGIONAL DIRECTOR
EASTERN REGIONAL COMMITTEE
15 NEELAKANTA NAGAR
NAYAPALLI
BHUBANESHWAR
PIN- 751012

5:NURUL ISLAM MAZUMDER
IN-CHARGE PRINCIPAL OF A.K. HIGHER SECONDARY SCHOOL

HAILAKANDI S/O- LATE SHOWKAT ALI
R/O- VILL- APPIN PART-II
P.O. APPIN
P.S. HAILAKANDI
DIST.- HAILAKANDI
ASSAM
PIN- 788151

6:THE ASSAM UNIVERSITY
SILCHAR TO BE REP. BY ITS REGISTRAR
ASSAM UNIVERSITY
SILCHAR
CACHAR
ASSAM
PIN- 78801

Advocate for the Petitioner : MR. B PURKAYASTHA

Advocate for the Respondent : SC, SEC. EDU.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

29/03/2023

Heard Mr. B Purkayastha, learned counsel for the petitioner. Also heard Mr. S M T Chistie, learned Standing counsel, Department of School Education for the respondent Nos. 1 to 3; Mr. I Alam, learned Standing counsel, NCTE for the respondent No. 4 and Mr. M Khan, learned counsel for the respondent No. 5, the caveator.

Petitioner as well as the respondent No. 5 are Assistant Teachers in Abdul Karim Higher Secondary School, Tantoo, District-Hailakandi (in short, A.K.H.S. School).

As the earlier Headmaster of said A.K.H.S. School, namely, Samsul Hoque Choudhury, who was holding the charge of Principal of the said H.S. School retired from service on 31.10.2022 on attaining the age of superannuation at 60 years, the Director of Secondary Education, Assam by an order No. GB-EST/Apptt/FP/50/2022/137 dated 18.01.2023 allowed the respondent No. 5 to be the in-charge Principal of said H.S. School along with financial power to draw and disburse the salary etc. of

the staff of the said school in addition to his normal duties as Assistant Teacher under F.R.49(C).

Both the petitioner and the respondent No. 5 are Master Degree holders and have also obtained B.Ed. degree. The petitioner obtained his B.Ed. degree from the Teachers' Training College, Silchar in December, 2001 on deputation, whereas the respondent No. 5 obtained his B.Ed. degree in the year 1999 without any deputation from Dr. Shashi Bhusan Institute of Education, Hailakandi, earlier known as Hailakandi B.Ed. College, Hailakandi.

By placing the order of the Court dated 27.02.2020 passed in WP(C) No. 4443/2007, the petitioner submitted that said Dr. Shashi Bhusan Institute of Education, Hailakandi obtained its recognition from the NCTE only on 15.06.2001. As such, the B.Ed. degree obtained by the respondent No. 5 is not a valid B.Ed. degree.

Petitioner has also annexed a copy of the affidavit filed by the respondent NCTE in WP(C) No. 4291/2017 (Bijon Nath Vs. State of Assam and 6 Others), wherein the NCTE categorically stated that said Dr. Shashi Bhusan Institute of Education, Hailakandi obtained its valid approval from the NCTE only on 15.06.2001 and that B.Ed. degree obtained prior to 15.06.2001 from the said Dr. Shashi Bhusan Institute of Education, Hailakandi is not a valid degree.

Further, by placing a copy of the communication dated 05.07.1996 of the respondent Assam University (Annexure-6 to this petition), the petitioner submitted that said Dr. Shashi Bhusan Institute of Education, Hailakandi obtained its permission from the Assam University to offer B.Ed. degree only for the session 1996-1997, but it did not give affiliation to the said Institute.

For the reasons above, the Court is of the view that the State respondents in the Secondary Education Department should first verify as to whether the B.Ed. degree obtained by the respondent No. 5 from Dr. Shashi Bhusan Institute of Education, Hailakandi in the year 1999 which he had obtained without deputation is a valid B.Ed. degree or not for the purpose of his selection to the post of Principal of any Provincialised and/or Government Higher Secondary Schools of the State as per the relevant Rules of recruitment in force. Thereafter, the authority concerned in the Secondary Education Department shall consider whom should confer the charge of Principal of said Abdul Karim Higher Secondary School, Tantoo, District-Hailakandi.

In that regard, the petitioner shall submit representation before the Secretary to the Govt. of Assam in the Department of School (Secondary) Education as well as the Director of Secondary Education, Assam on or before 10.04.2023 along with a certified copy of this order along with a copy

of this writ petition including the Annexure appended thereto, obtaining necessary acknowledgement from the said authorities in that regard.

In the event of filing such representation by the petitioner, the Secretary to the Govt. of Assam in the Department of School (Secondary) Education as well as the Director of Secondary Education, Assam shall determine whether the B.Ed. degree obtained by the respondent No. 5 is a valid and acceptable degree in law or not.

Further, on filing such representation by the petitioner, the Secretary to the Govt. of Assam in the Department of School (Secondary) Education as well as the Director of Secondary Education, Assam shall dispose of the said representation of the petitioner, after giving an opportunity of hearing to both the petitioner as well as the respondent No. 5, intimating them about the outcome of the said representation.

Till such decision of the Secretary to the Govt. of Assam in the Department of School (Secondary) Education as well as the Director of Secondary Education, Assam, the order dated 18.01.2023 issued by the Director of Secondary Education, Assam allowing the respondent No. 5 to be the in-charge Principal of said A.K.H.S. School shall remain suspended.

Further, till such decision of the Secretary to the Govt. of Assam in the Department of School (Secondary) Education as well as the Director of Secondary Education, Assam, the Inspector of Schools, Hailakandi District Circle, Hailakandi is allowed to hold the charge of Principal of said A.K.H.S. School, Tantoo, District-Hailakandi, including the charge of Drawing and Disbursing Officer for the purpose of drawing and disbursing the salaries etc. of the staff of the said Higher Secondary School.

With above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant