

GAHC010224922022



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

**Case No. : WP(C)/7132/2022**

EDUCATION RESEARCH AND DEVELOPMENT FOUNDATION (ERDF) AND  
ANR  
A REGISTERED TRUST HAVING ITS OFFICE AT ERDF BHAWAN, LALMATI  
ROAD, BHETAPARA, GUWAHATI- 781028. REPRESENTED BY ITS FOUNDER  
TRUSTEE AZMOL HUSSAIN BARBHUIYA.

2: AZMOL HUSSAIN BARBHUIYA  
SON OF SIDDEQUE ALI BARBHUIYA

RESIDENT OF FLOWER LANE

NEAR LITTLE FLOWER SCHOOL

HATIGAON  
GUWAHATI- 38

KAMRUP(M)

VERSUS

THE STATE OF ASSAM AND 6 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM,  
HEALTH AND FAMILY WELFARE DEPARTMENT,  
DISPUR, GUWAHATI-6.

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE DEPARTMENT

DISPUR  
GUWAHATI-6.

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
MEDICAL EDUCATION AND RESEARCH DEPARTMENT

DISPUR  
GUWAHATI-6.

4:THE DIRECTOR OF MEDICAL EDUCATION  
ASSAM  
SIXMILE  
KHANAPARA

GUWAHATI- 22.

5:SRIMANTA SANKARDEVA UNIVERSITY OF HEALTH SCIENCES  
  
NARAKASUR HILLTOP

BHANGAGARH  
GUWAHATI- 781032

REPRESENTED BY ITS REGISTRAR.

6:THE PHARMACY COUNCIL OF INDIA  
NBCC CENTRE  
3RD FLOOR

PLOT NO. 2  
COMMUNITY CENTRE

MAA ANANDAMAI OKHLA PHASE I

NEW DELHI- 110020.

7:THE JOINT SECRETARY  
HIGHER EDUCATION DEPARTMENT  
DISPUR  
GUWAHATI

**Advocate for the Petitioner** : MR. U K NAIR

**Advocate for the Respondent** : SC, HEALTH

**BEFORE  
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

**ORDER**

**Date : 07-09-2023**

Heard Mr. MZ Quadir, learned counsel for the petitioner. Also heard Mr. DP Borah, learned counsel for the respondents in the Medical Education Department of Government of Assam and Mr. K Gogoi, learned counsel for the Pharmacy Council of India.

2. The petitioner Education Research and Development Foundation is operating the Allama T.R. College of Pharmacy at Badarpur in the Karimganj district. Under the rules and regulations to establish a pharmacy college, amongst others, there is a requirement of a No Objection Certificate (in short, NOC) to be obtained from the Medical Education Department of Government of Assam. Pursuant thereto, by the communication dated 03.06.2022 of the Commissioner & Secretary to the Government of Assam in the Medical Education and Research Department addressed to the Chairman of the petitioner college, a NOC was granted by the Government of Assam in the Medical Education and Research Department for starting of Degree/Diploma in Pharmacy course in the petitioner institute for admitting batches of the years 2020-21 & 2021-22 but subject to the condition that no further admission for the session 2022-2023 and thereafter shall be made by the petitioner institute without further Government permission. One of the conditions of the NOC was that the institute shall fulfill all the requirements with regard to physical infrastructure, clinical facility and teaching facility as laid down by the Government/SSUHS within a period of one year from the date of issuance of the NOC.

3. Accordingly, a further inspection was made and the report dated 12.08.2023 is available at page-95 of the writ petition. In the comments and remarks to the report dated 12.08.2023 at Clause 3 it is provided that the infrastructure is adequate with respect to rooms and laboratories but few rooms were found to be smaller in dimensions. It is stated that the laboratories which is a necessary infrastructure to operate a pharmacy college of the petitioner, is found to be smaller in dimensions than what is required. At Clause 13 it is further provided that apart from the infrastructural facilities the Institute is having some more rooms in the same building in 4<sup>th</sup> & 5<sup>th</sup> floor which can be utilized in future.

4. A reading of the inspection report dated 12.08.2023 as well as the initial NOC dated 03.06.2022 makes it discernable that the laboratories that is existing in the petitioner college is found to be smaller in dimensions than what is required but some further rooms are available in the building. In other words, the petitioner authorities, if they intend to do so, can utilize the further available space for being converted into laboratories so that the dimensions of the laboratories is to the satisfaction of the respondents in the Medical Education Department.

5. In view of the aforesaid factual aspect as discernable from the NOC as well as the inspection report of 12.08.2023, we are unable to agree with the prayer of the writ petitioner that inspite of not having a NOC they be allowed to admit students for the next academic years which have been prevented by respondents in the Medical Education Department or else to issue a direction to Medical Education Department to issue NOC to the petitioner. The original NOC of 03.06.2022 is explicit in itself that one year had been granted to the petitioner institute to enlarge the dimensions of the laboratories as well as it is

also an admitted position that further space is also available within the building of the petitioner college, so what further remains is a desire on the part of the petitioner to utilize the further space available for the purpose of the laboratories.

6. In view of the above, the authorities in the petitioner to approach the Commissioner and Secretary to the Government of Assam in the Medical Education and Research Department to have a precise information as to what is required to be done and to what extent the dimensions of the laboratories are to be extended and as extra space is already available, necessary modification be done to the building so that the laboratories of acceptable dimensions are put in place. The authorities in the petitioner may forthwith approach the Commissioner and Secretary to the Government of Assam in the Medical Education and Research Department and upon doing the needful, may make the necessary modification in the building and upon completion of the same, to make a representation to the Commissioner and Secretary for an immediate inspection of the space that may be modified and the Commissioner & Secretary shall do the needful to pass a reasoned order within a period of seven days from such communication after the modification is done.

Writ petition stands disposed of in the above terms.

**JUDGE**

**Comparing Assistant**