

GAHC020002892022



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

Case No. : WP(C)/112/2022

SMTI. AOSENLA PONGENER
D/O T. WATI AO, HILL VIEW COLONY, DIMAPUR NAGALAND

VERSUS

THE STATE OF NAGALAND AND 2 ORS
REPRESENTED THROUGH THE CHIEF SECRETARY TO THE
GOVERNMENT OF NAGALAND, KOHIMA

2: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
NAGALAND
DEPARTMENT OF EDUCATION
NAGALAND KOHIMA

3: THE PRINCIPAL DIRECTOR (DoSE)
DIRECTORATE OF SCHOOL EDUCATION
NAGALAND
KOHIMA

Advocate for the Petitioner : C. T. JAMIR, SR. ADV

Advocate for the Respondent : GOVT ADV NL

BEFORE
HON'BLE MR JUSTICE MRIDUL KUMAR KALITA

For the Petitioner : Mr. C. T. Jamir, Sr. Advocate
: Mr. Aliba Ozukum, Advocate

For the Respondents : Mr. N. Angami, Sr. Govt. Advocate

Date of Judgment & Order : 13.10.2023

JUDGMENT

1. Heard Mr. C. T. Jamir, learned senior counsel assisted by Mr. Aliba Ozukum, learned counsel for the petitioner. Also heard Mr. N. Angami, learned Senior Government Advocate for the respondents.

2. This writ petition under Article 226 of the Constitution of India has been filed by the petitioner praying for setting aside and quashing the Inquiry report dated 07.04.2022 as well as removal order dated 08.06.2022 whereby the petitioner was removed from service under the Department of School Education, Nagaland without disqualification for future employment under the Government.

3. The petitioner's case, in this writ petition, in brief, is as follows:-

(i) In pursuant to the advertisement dated 09.12.2011 bearing No. ED/EXAM/2010-11, issued by the Government of Nagaland, Directorate of School Education, whereby the applications were invited from the Naga indigenous inhabitant of Nagaland for filling up the post of Primary Teachers and Graduate Teachers in Elementary and Secondary Schools Education, the petitioner applied for the post of Graduate Teachers (Mathematics). After the recruitment examination, the petitioner was selected for the aforesaid post and by order No. ED-ESTT./DMR/SSA-1G/12 dated 22.03.2013 she was appointed as Graduate Teachers (Mathematics) in the Pay Band of

PB-2, 9300-34,800/- and Grade Pay of Rs. 4200/- per month and joined her service on 26.03.2013 and was posted as Graduate Teachers (Mathematics), Duncan Ao, Dimapur. Before being appointed, the petitioner executed an undertaking dated 16.06.2012 to the effect that she shall complete B.Ed. within three years from the date of receiving of her appointment letter.

(ii) After being appointed, the petitioner submitted an application on 26.05.2014 to the Director of School Education through proper channel for undergoing B.Ed. course, however, the said application was misplaced by the office and subsequently the same was traced out and the department, on 10.10.2017 accorded ex-post facto approval for pursuing B.Ed course at Swami Vivekanand University, Sagar, Madhya Pradesh. However, by that time she had already completed her B.Ed. from the said university. She completed her Bachelor of Education (B.Ed.) in the year 2014 from Swami Vivekanand University, Sagar, Madhya Pradesh securing first division.

(iii) On 17.02.2022, a show cause notice was issued by the Principal Director, Directorate of Secondary Education, Kohima against the petitioner under Rule 4(1) of the Nagaland Government Servants Conduct Rules, 1968 stating that she had submitted a fake Bachelor of Education Certificate and was directed to reply to the said show cause notice within ten days. The petitioner replied the said show cause notice on 28.02.2022 wherein she has stated she had undergone B.Ed. from the said university after obtaining approval for the same from the department and results have been declared online and, accordingly, she had submitted her B.Ed. certificate to

the department, however, on 02.03.2022, the respondent No. 3, i.e., the Principal Director, Directorate of School Education, Nagaland issued a memorandum bearing No. ED/CON/A-2/2022/70 along with article of charges against the petitioner under Rule- 9(2) of the Nagaland Services (Discipline and Appeal) Rules, 1967 wherein it was alleged that the present petitioner has submitted fake Bachelor of Education (B.Ed.) Certificate purportedly issued by the Swami Vivekanand University, Sagar, Madhya Pradesh and has utilized the fake document to mislead the department for availing undue service benefit and have thus violated Rule 4(1)(i) and (iii) of the Nagaland Government Servants Conduct Rules, 1968.

(iv) Though, the reply to the said memorandum of charges were given by the petitioner, however, a departmental inquiry was initiated and a board of inquiry was constituted to enquire into the charges framed against the petitioner. An inquiry notice dated 21st March, 2022 was also issued against the present petitioner directing her to present herself for a hearing before the board of inquiry on 30th March, 2022 at 10.00 AM at Room No. 411 of the Directorate of School Education, Kohima along with all documents/records/materials pertaining to pursuing of B.Ed. course by the present petitioner. It was also directed that if the petitioner intends to engage one defence assistant, she may intimate about the same. Ultimately, after completion of the enquiry, on 07th April, 2022, the board of inquiry submitted its inquiry report wherein it came to a finding that the petitioner had submitted a fake document

to mislead the department. By memorandum dated 08th April, 2022, the said inquiry report dated 07th April, 2022 was furnished to the present petitioner for making any representation on the said report within fifteen days from the receipt of the said memorandum.

(v) On 22.04.2022 the present petitioner submitted a representation to the disciplinary authority, namely, the Principal Director, Directorate of School Education, Nagaland (respondent No. 3) wherein she, *inter alia*, took plea that she pursued the her B.Ed. course from Swami Vivekanand University, Sagar, Madhya Pradesh through ICDL, Dimapur under distance education mode after taking approval from the Director of School Education wherein it was clearly indicated that the ICDL, Dimapur was her study center. She also questioned that if ICDL, Dimapur was not recognized, why the approval was accorded to her application. She has further taken the plea that though the charge was framed against her, in the enquiry report the name of one Alila Imsong has been shown against the verification report. She also submitted that the charge of fake certificate has not been substantiated during the inquiry by the board of inquiry.

(vi) However, by order bearing No. ED/CON-A-2/2022/178 dated 08th June, 2022, the Principal Director, Department of School Education discarded the objection raised by the present petitioner and accepted the inquiry report and imposed the penalty of removal from service, which shall not be disqualification for future employment under Government.

(vii) Later on, by order dated 08th June, 2022 bearing No. ED/CON-A-2/2022/189, the petitioner was removed from service under the Directorate of School Education, Nagaland w.e.f. issuance of the said order. It was further stipulated that the order of removal from service shall not be disqualification for future employment under Government.

4. It is pertinent to mention herein that by order dated 20.06.2022, this Court stayed the impugned order (i.e., order dated 08.06.2022 removing the present petitioner from service) till returnable date and thereafter continued the stay by passing orders on different dates and therefore, the present petitioner is presently continuing to work as Graduate Teacher (Maths) at GMS Duncan Ao, Dimapur.

5. Mr. C. T. Jamir, learned senior counsel for the petitioner has submitted that the petitioner has become victim of fraud committed by the authorities. It is submitted that she was duly selected for the post of Graduate Teacher (Maths) which was conducted after thorough recruitment examination in pursuant to the advertisement dated 09.12.2011 issued by the Government of Nagaland, Directorate of School Education, Nagaland. It is also submitted that though, there was an stipulation in the said advertisement that the preference would be given to candidates having professional qualification of Pre-Service Teacher Education (PSTE)/Bachelor of Education (B.Ed.) for appointment to Elementary/Secondary Education respectively, however same was not a requisite eligibility criteria for being appointed to the post which were advertised including the post of Graduate Teacher (Maths).

6. It is further submitted that though having B.Ed. degree was not an essential requisite qualification as per the advertisement, however, the present petitioner executed an undertaking dated 16th June, 2012 to the effect that she would complete B.Ed. degree within three years from the date of receiving her appointment. It is further submitted that the present petitioner undertook B.Ed. course through distance education mode from Swami Vivekanand University, Sagar, Madhya Pradesh through a study center at Dimapur, namely, ICDL, Dimapur and she was accorded post facto approval for the same by the respondent authorities.

7. Learned senior counsel for the petitioner has also submitted that after completion of her B.Ed. study, B.Ed. certificate was issued to her by the Swami Vivekanand University, Sagar, Madhya Pradesh through online mode and the petitioner is not aware as to whether the said certificate is fake or not as she believes same to be genuine. Learned senior counsel for the petitioner has also submitted that there is a gross violation of principles of natural justice in conducting the disciplinary inquiry against the present petitioner. It is also submitted that though, in pursuant to the inquiry notice dated 21st March, 2012, the petitioner appeared before the board of inquiry, however, she was provided with a questionnaire by the board of inquiry which she was asked to fill up and she was not afforded with any opportunity of cross-examining any departmental witness as well as contradicting the evidence on the basis of which the board of inquiry arrived at a finding against the present petitioner. It is submitted that the present petitioner is not aware as to whether the certificate submitted by her is found to be fake.

8. Learned senior counsel for the petitioner also submits that bare perusal of the inquiry report would show that the verification report purportedly given by the competent authorities of Swami Vivekanand University, Sagar, Madhya Pradesh, on which the finding against the present petitioner was arrived at pertains to B.Ed. certificate submitted by another Government servant, namely, Smt. Alila Imsong and there is nothing in the inquiry report to show that the present petitioner submitted any fake B.Ed. certificate.

9. Learned senior counsel for the petitioner has also submitted that as the inquiry report submitted on 7th April 2022 by the board of inquiry does not indicate that which of the departmental witnesses were examined and whether any opportunity was afforded to the present petitioner to cross-examine such witnesses, the entire procedure adopted in the departmental inquiry and the decision making process of the board of inquiry as well as disciplinary authority is arbitrary and against the principles of natural justice.

10. In support of his submission, learned senior counsel for the petitioner cited a ruling of Hon'ble Supreme Court of India in "***S.C. Girotra -Vs- United Commercial Bank (UCO Bank) and Others***" reported in "***1995 Supp. (3) SCC 212***" wherein Hon'ble Apex Court had set aside the inquiry report for not giving opportunity to the appellant to cross-examine the departmental witnesses.

11. Learned senior counsel also cited another ruling of Hon'ble Supreme Court of India in "***Manohar Lal Sharma -Vs- Principal Secretary and Others***" reported in "***(2014) 9 SCC 614***" wherein it was held that all the

parties likely to be adversely affected are required to be given a hearing and the principles of natural justice must be realistically and pragmatically applied.

12. Learned senior counsel has also cited a ruling of Madhya Pradesh High Court in “***Dilip Patel -Vs- School Education Department***” reported in “***Indian Kanoon-*** <http://indiankanoon.org/doc/133046462/>” wherein the petitioners were afforded an opportunity to obtain B.Ed. degree once it was found that the degree obtained by the petitioner of the said case was not from a recognized university.

13. Learned senior counsel for the petitioner has further submitted that the petitioner has been penalized with one of the severest punishment prescribed in the Nagaland Services (Discipline and Appeal) Rules, 1967 i.e., removal from service. He further submitted that though, it has been mentioned that the said removal would not be treated as disqualification for future appointment under Government, however, as the petitioner has already rendered services as Graduate Teacher (Maths) for last 10 years and she is already over aged to apply to any Government post, hence, the penalty imposed on her for no fault of her is a disproportionate and harsh penalty and has left a stigmatic impression about the petitioner. It is further submitted by learned senior counsel for the petitioner that as the B.Ed. certificate issued to the present petitioner was issued by the university, she is not aware as to whether the said certificate is fake or not and the respondent authorities have also failed to prove that the B.Ed. certificate of the present petitioner is a fake certificate. It is further submitted that even if the said certificate is not

genuine, it is not because of any fault of the present petitioner but because she has been victim of the authorities who have issued said certificate to her.

14. On the other hand, Mr. N. Angami, learned Senior Government Advocate for the respondents has submitted in the present case, the charge against the present petitioner is not regarding her obtaining B.Ed. certificate from unrecognized university but regarding submission of a fake B.Ed. certificate to the authorities to comply with the undertaking which she had executed on 16.06.2012. It is submitted by learned Senior Government Advocate that the petitioner has falsely submitted before the authorities that she has completed B.Ed. degree with 1st Division whereas in fact the certificate of B.Ed. which she submitted before the authorities is found to be fake and same has been confirmed by the competent authorities of Swami Vivekanand University, Sagar, M.P. from where the present petitioner has claimed to have obtained B.Ed. degree. In this regard, Learned Senior Government Advocate brought to the notice of this Court the verification report submitted by the Registrar of Swami Vivekanand University, Sagar, M.P. by letter dated F-11/Reg/svnu/2011/very/1825 dated 16.12.2021 wherein it was reported that the mark-sheet of student Aosenla Pongener of B.Ed. for the year 2014 bearing Roll No. 132013006101661425 sent for verification is found to be fake/forged. It is submitted by learned Senior Government Advocate that the petitioner knowingly submitted a fake B.Ed. certificate.

15. It is also submitted by learned senior Government Advocate that the ICDL, Dimapur does not fulfill the National Council for Teacher

Education (NCTE) norms for functioning as a study center for B.Ed. course offered by Swami Vivekanand University, Sagar, Madhya Pradesh. It is further submitted by learned Senior Government Advocate that the board of inquiry arrived at its finding on the basis of assessment of evidence during the departmental inquiry. It is further submitted that the erroneous mention of name of Smt. Alila Imsong at column No. 8 under the heading assessment of evidence in the inquiry report is unintentional typographical mistake which was later on rectified by the board of inquiry and a clarification to this effect was given by the board of inquiry to the Principal Director, Directorate of School Education by letter dated 25th April, 2022 wherein it was mentioned that the name of Smt. Alila Imsong has been mentioned in the inquiry report instead of Aosenla Pongener due to inadvertent typographical error. It is also submitted by learned Senior Government Advocate that on 30.03.2022 besides providing written questionnaire to the petitioner, she was also given the opportunity to make additional remark or statement which she desires to express apart from what was queried. It is submitted that she was given enough opportunity to present her defence against the gross misconduct of submitting a fake B.Ed. certificate to the department, however, the petitioner has failed to show that the B.Ed. certificate submitted by her is not a fake one and, therefore, as being a teacher and submitting a fake B.Ed. certificate amounts to gross misconduct, the penalty imposed on her is justified and not disproportionate.

16. Learned Senior Government Advocate has submitted that the petitioner being appointed as Teacher and she herself submitting a fake certificate to the authorities is a unpardonable misconduct and the

disciplinary authority has rightly imposed the penalty of removal from service on her. In support of his submission, learned Senior Government Advocate has cited a ruling of Hon'ble Supreme Court of India in “**Indian Oil Corporation Limited -vs- Rajendra D. Harmalkar**” reported in “**MANU/SC/0520/2022**” wherein it was observed as follows:-

“7.1 In the present case, the original writ Petitioner was dismissed from service by the Disciplinary Authority for producing the fabricated/fake/forged SSLC. Producing the false/fake certificate is a grave misconduct. The question is one of a TRUST. How can an employee who has produced a fake and forged marksheet/certificate, that too, at the initial stage of appointment be trusted by the employer? Whether such a certificate was material or not and/or had any bearing on the employment or not is immaterial. The question is not of having an intention or mens rea. The question is producing the fake/forged certificate. Therefore, in our view, the Disciplinary Authority was justified in imposing the punishment of dismissal from service.”

17. I have considered the submissions made by learned counsel for both sides as well as have gone through the documents available on record.

18. Rule 9 of the Nagaland Services (Discipline and Appeal) Rules, 1967 which provides for the procedure to be adopted in disciplinary proceeding for imposing penalties is quoted herein below:-

“9. Procedure for imposing penalties:

(1) Without prejudice to the provisions of the Public Servant (Inquiry) Act, 1850, no order imposing on a Government servant any of the penalties specified in Rule 7 shall be passed except after an inquiry, held as far as may be, in the manner herein after provided.

(2) The Disciplinary Authority shall frame definite charges on the basis of the allegations on which the inquiry is proposed to be held. Such charges, together with a statement of the allegations on which they are based, shall be communicated in writing to the Government servant, and he shall be required to submit, within such time as may be specified by the Disciplinary Authority, a written statement of his defence and also to state whether he desires to be heard in person. (Standard Form of Memorandum of Charge Sheet and Memorandum is specified in Schedule IV).

Explanation: *In this sub-rule and in sub-rule (3), the expression "Disciplinary Authority" shall include the authority competent under these rules to impose upon the Government servant any of the penalties specified in rule 7.*

(3) The Government servant shall, for the purpose of preparing his defence, be permitted to inspect and take extracts from such official records as he may specify, provided that such permission may be refused if, for reasons to be recorded in writing, in the opinion of the Disciplinary Authority such records are not relevant for the purpose or it is against the public interest to allow him access thereto.

Provided that when a Government servant is permitted to inspect and take extracts from official records, due care shall be taken against tampering, removal or

destruction of records.

(4) On receipt of the written statement of defence or, if no such statement is received within the time specified, the Disciplinary Authority may itself inquire into such of the charges as are not admitted or, if it considers it necessary to do so, appoint for the purpose a Board of Inquiry or an Inquiring Officer.

(5) The Disciplinary Authority may nominate any person to present the case in support of the charges before the Authority inquiring into the charges (hereinafter referred to as to as the Inquiring Authority). The Government servant may present his case with the assistance of any other Government servant approved by the Disciplinary Authority but may not engage a legal practitioner for the purpose unless the person nominated by the Disciplinary Authority, as aforesaid, is a legal practitioner or unless the Disciplinary Authority, having regard to the circumstances of the case, so permits. (A Standard Form of Order relating to the appointment of Inquiry Officer is specified in Schedule V).

(6) The Inquiring Authority shall, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or materials in regard to the charges. The Government servant shall be entitled to cross-examine witnesses examined in support of the charges and to give evidence in person and to adduce documentary and oral evidence in his defence. The person presenting the case in support of the charges shall be entitled to cross-examine the Government servant and the witnesses examined in his defence. If the Inquiring Authority declines to examine any witness or to admit any document in evidence on

the ground that his evidence or such document is not relevant or

(7) At the conclusion of the inquiry, the Inquiring Authority shall prepare a report of the inquiry, recording its finding on each of the charges together with reason therefore.

(8) The record of the inquiry shall include :-

i) the charges framed against the government servant and the statement of allegations furnished to him under sub-rule (2)

ii) his written statement of defence, if any,

iii) the oral evidence taken in the course of the inquiry

iv) the documentary evidence considered in the course of the inquiry

v) the orders, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry, and

vi) a report setting out the findings on each charges and the reasons therefore.

(9) The Disciplinary Authority shall, if it is not the Inquiring Authority, consider the record of the inquiry and record its findings on its charge.

*(10) ** Major Penalties:-*

i) If the Disciplinary Authority having regard to its findings on all or any of the Article of the Charges and on the basis of the evidence adduced during

the inquiry, is of the opinion that any of the penalties specified in the clauses (v) to (ix) of Rule 7 should be imposed on the Government servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government servant any opportunity of making representation on the penalty proposed to be imposed.

Provided that in every case in which it is necessary to consult the Commission, report of the inquiry shall be forwarded in Form No. VII specified in the Schedule by the Disciplinary Authority to the Commission for its advice and on receipt of the advice of the Commission, the Disciplinary Authority shall pass appropriate orders in the case taking into consideration of the advice given by the Commission."

19. A bare perusal of the Memorandum of Charges dated 2nd March, 2022 against the present petitioner, which was issued to her by the respondent No. 3, would show that the main allegation against her is not regarding obtaining B.Ed. degree from an unrecognized university but it is regarding submission of fake Bachelor of Education Certificate purportedly issued by Swami Vivekanand University, Sagar, Madhya Pradesh.

20. Though, Rule 9 (8)(iii) and (iv) of the Nagaland Services (Discipline and Appeal) Rule, 1967 provide that the record of inquiry shall include oral evidence taken in course of inquiry and the documentary evidence considered in course of inquiry and though the memorandum of charges furnished to the present petitioner shows the name of the head teacher, GMS, Duncan, Ao, Dimapur as the sole witness at Annexure- IV

and the letter from the competent authority of Swami Vivekanand University, Sagar, Madhya Pradesh, certifying that the Bachelor of Education (B.Ed.) Certificate submitted by Smt. Aosenla Pongener is fake/not genuine, however, in the inquiry report dated 07th April, 2022, neither there is any mention about the evidence of head teacher, GMS, Duncan, Ao, Dimapur nor there is any mention of letter from the competent authority of Swami Vivekanand University, Sagar, Madhya Pradesh, certifying that the Bachelor of Education (B.Ed.) Certificate submitted by Smt. Aosenla Pongener is fake/not genuine.

21. It also appears from the inquiry report that against the heading of the case of the disciplinary authority nothing has been stated about the case of the disciplinary authority or regarding the evidence by which the said case is proposed to be proved rather it is only mentioned therein that the charged Government servant submitted her statement of defence on 14.03.2022 wherein she denied the article of charge. Therefore, it is not clear from the inquiry report of the board of inquiry as to whether the present petitioner was afforded an opportunity to cross-examine the departmental witnesses or to counter the departmental evidence.

22. Though, it also appears that the present petitioner was asked to fill up a questionnaire by the board of inquiry, however, there is no mention or any discussion about the said questionnaire in the inquiry report.

23. Further, on bare perusal of the inquiry report dated 7th April, 2022, it appears that though the board of inquiry came to a conclusion that ICDL, Dimapur does not fall under the category of institutions

recognized by NCTE to function as a study center for B.Ed. course offered by any university and it was the responsibility of the candidates to ascertain the credentials of the institutions before taking admission and satisfying themselves that the institutions offering B.Ed. course fulfill the norms prescribed by NCTE (Recognition Norms & Procedure) Regulation, 2009, however, the board of inquiry nowhere made any observation that the present petitioner submitted B.Ed. certificate knowing the same to be the fake certificate. On perusal of the observations made by the board of inquiry at point Nos. 6 and 7 under the heading assessment of evidence of the inquiry report, it appears that it is ICDL, Dimapur which was unauthorized to function as a study center and it appears that the petitioner was victimized as because she undertook the B.Ed. course in an unauthorized study centre. The plea of the petitioner that her B.Ed. certificate was not fake was not considered by the board of inquiry. The board of inquiry failed to take into consideration the fact that to submit a fake certificate knowing it to be so is a different thing from the fact that a certificate which was submitted thinking it to be genuine but which was later on found to be fake.

24. Its only ground for holding that the B.Ed. certificate submitted by present petitioner was fake is as mentioned in point No. 8 under the heading assessment of evidence of the inquiry report was that the verification report given by the competent authority of Swami Vivekanand University, Sagar, Madhya Pradesh, establishes that the B.Ed. certificate by the charged Government servant *Smt. Alila Imsong* is fake. Thus, it appears that in the report dated 7th April, 2022, name of Smt. Alila Imsong was mentioned instead of present petitioner Smt. Aosenla

Pongener as regards the person who had submitted the fake B.Ed. certificate.

25. Though, learned Senior Government Advocate has submitted that, later on, the error regarding the name of the petitioner in the inquiry report was clarified by the board of inquiry by issuing a clarification on 25th April, 2022, whereby it was clarified that name of Smt. Alila Imsong has been mentioned in the inquiry report dated 07.04.2022 due to inadvertent typographical error. However, it appears that though that said clarification regarding typographical error in the inquiry report was addressed to respondent No. 3, the copy of same was not furnished to the present petitioner and she was not given any opportunity to make reply to the said clarification which, in considered opinion of this Court is a clear violation of principles of natural justice. Further, it also appears that in the impugned order dated 08th June, 2022, the disciplinary authority, i.e., the respondent No. 3 has not mentioned anything about the discrepancy of the name of the petitioner in the inquiry report submitted by the board of inquiry. It also does not mention about any clarification which is purported to have been issued on 25th April, 2022. Further, as regards representation by the present petitioner against the inquiry report, it refers only to the representation dated 22.04.2022 submitted by the petitioner, which was prior to the purported clarification dated 25.04.2022. Thus, it appears that there was an apparent violation of the principles of natural justice against the present petitioner in accepting the inquiry report by the disciplinary authority and imposing the penalty of removal on her.

26. Further, it has come to the notice of this Court that though, the main reason for coming to the finding that the present petitioner has submitted a fake B.Ed. certificate was the verification report submitted by the competent authority of Swami Vivekanand University, however, on perusal of the said verification report, a copy of which has been furnished by learned Senior Government Advocate as Annexure- A to the affidavit-in-opposition submitted by the State respondents, it appears that the same is a verification report in respect of Mark-sheet only and not in respect of any B.Ed. certificate with regard to which the charge has been framed against the present petitioner.

27. It is very easy to distinguish a mark-sheet from B.Ed. certificate. What is being generally referred as a degree certificate is generally a pass certificate either provisional or final. In this case, a copy of the provisional certificate issued to the present petitioner by Swami Vivekanand University has been annexed along with writ petition at page No. 32 of the writ petition. However, it appears that there is no material in the inquiry report to show that the said B.Ed. certificate was fake as the verification report about which the mention has been made in the Inquiry report pertains only to a mark-sheet and not to B.Ed. certificate.

28. Thus, from above, it appears that the inquiry report submitted by the board of inquiry against the present petitioner on the basis of which the penalty of removal has been imposed by the impugned order dated 08th April, 2022 is not based on evidence oral or documentary collected during the course of departmental proceeding. As discussed in foregoing paragraphs, it also appears that there has been violation of

principles of natural justice in conduct of the disciplinary proceeding against the present petitioner and same was not conducted as per the provisions of Rule 9 of the Nagaland Services (Discipline and Appeal) Rules, 1967.

29. In view of above reasons, the impugned inquiry report dated 07th April, 2022 against the present petitioner as well as the impugned order dated 08th June, 2022 bearing No. ED/CON-A-2/2022/178 and impugned order dated 08th June, 2022 bearing No. ED/CON-A-2/2022/189 are hereby set aside and quashed and this writ petition is allowed. However, it is hereby made clear that the respondent authorities are not precluded from conducting a fresh inquiry to find out whether the petitioner has knowingly submitted any fake educational document to the respondent authorities. Further, considering the fact that by now the petitioner has already rendered her services as Graduate Teacher (Mathematics) for more than ten years six months, the respondent authorities are not precluded to allow her to obtain a B.Ed. degree from an institution recognized by NCTE.

30. With the above observation, this writ petition is hereby disposed of.

JUDGE

Comparing Assistant