

GAHC010148092020



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

**Case No. : WP(C)/4442/2020**

DINA NATH KALITA  
S/O. LT. BANGADHAR KALITA, ASSTT. TEACHER, DAGAON, HIGH  
SCHOOL, DAGAON, R/O. VILL. SAJEI, P.O. DAGAON, P.S.  
BAIHATACHARIALI, DIST. KAMRUP, ASSAM, PIN-781133.

VERSUS

THE STATE OF ASSAM AND 6 ORS  
REP. BY THE COMM. AND SECY., TO THE GOVT. OF ASSAM, DEPTT. OF  
SECONDARY EDUCATION, DISPUR, GUWAHATI, ASSAM, PIN-781006.

2:THE DIRECTOR OF SECONDARY EDUCATION

CUM MEMBER SECRETARY  
STATE SELECTION BOARD  
ASSAM  
KAHILIPARA  
GUWAHATI  
ASSAM  
PIN-781019.

3:THE INSPECTOR OF SCHOOLS

KDC  
DADARA  
AMINGAON  
DIST. KAMRUP  
ASSAM.

4:THE NATIONAL COUNCIL FOR TEACHER EDUCATION

EASTERN REGIONAL COMMITTEE

REP. BY ITS REGIONAL DIRECTOR  
15 NILAKANTHA NAGAR  
NAYAPALLI  
BHUBANESWAR  
ORISSA  
PIN-751012.

5:THE GAUHATI UNIVERSITY

GUWAHATI  
REP. BY ITS REGISTRAR/CONTROLLER OF EXAMINATION  
GUWAHATI  
ASSAM.

6:THE PRINCIPAL BAIHATA CHARIALI E.ED COLLEGE

BAIHATA CHARIALI  
KAMRUP  
ASSAM  
PIN-781381.

7:PRABITRA KUMAR

HEADMASTER  
DAGAON  
HIGH SCHOOL  
DAGAON  
P.O. DAGAON  
P.S. BAIHATA CHARIALI  
DIST. KAMRUP  
ASSAM  
PIN-781133

**Advocate for the Petitioner : MR. A K DUTTA**

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

**BEFORE  
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

**Judgment & Order (Oral)**

**30.04.2024**

Heard Mr. B. Purkayastha, learned counsel for the petitioner. Also heard Mr. S. M. T. Chistie, learned Standing Counsel, Education (Secondary) Department, representing the respondents no. 1, 2 & 3; Mr. I. Alam, learned Standing Counsel, NCTE, representing the respondent no. 4; Mr. P.J. Phukan, learned Standing Counsel, Gauhati University, representing the respondent no. 5 as well as Mr. A. Deka, learned counsel appearing for the respondent no. 7.

**2.** The petitioner by way of instituting the present proceeding has presented a challenge to an order dated 20.02.2020, issued by the Director of Secondary Education, Assam, towards promoting the respondent no. 7, herein, as the Headmaster of Dagaon High School, District Kamrup on the ground that the B.Ed degree certificate as issued to the respondent no. 7 was so issued after he had undertaken the course involved from an institution not recognized by the National Council For Teacher Education (NCTE). The petitioner herein, was appointed as an Assistant Teacher in the intermediate scale of pay on 13.07.1990 and thereafter, he was upgraded to the graduate scale of pay vide an order dated 17.03.1992. The petitioner contends that thereafter, on being sent on deputation, he had undergone his B.Ed degree course as a regular candidate from the College of Teacher Education, Mangaldai and had completed the said course in the year 2019.

The petitioner contends that the respondent no. 7 herein, had pursued his B.Ed degree course during the Academic Session 1997-1998 from Baihata Chariali B.Ed College, Kamrup and had obtained his B.Ed degree from the Gauhati University in the year 1998. The petitioner has contended that the respondent no. 7 had pursued his B.Ed degree course from the said institution after the enforcement of the NCTE, Act 1993 i.e. after the date of its enforcement i.e. after 01.07.1995 and during the period when the said College was not recognized by the NCTE. It is the contention of the petitioner that the respondent authorities without examining the validity of the B.Ed degree as submitted by the respondent no. 7, proceeded to consider his case for promotion to the post of Headmaster, Dagaon High School, Dagaon and vide order dated 20.02.2020, he was so promoted on regular basis. It is also contended that the respondent no. 7 had joined his services as the Headmaster of the said school on 21.02.2020.

The pleas in this connection raised before the respondent authorities not being considered, the petitioner had instituted the present proceedings praying that the B. Ed degree certificate so issued by the University authority to the respondent no. 7 being for a course undergone by the respondent no. 7 herein, in an institution not recognized by the NCTE, the same is required to be declared to be invalid. Consequently, it was prayed that the promotion as effected in the case of the respondent no. 7 to the post of Headmaster of the said school is also required to be interfered with.

**3.** Mr. B. Purkayastha, learned counsel for the petitioner by reiterating the facts as noticed herein above has contended that given the provisions of the NCTE Act, 1993 and also the date on which the said Act was so

enforced, the institution i.e. the Baihata Chariali B.Ed College, not being recognized by the NCTE, the course of study as pursued by the respondent no. 7 therein, as well as the conferment on him the B.Ed degree by the Gauhati University are void-ab-initio and the same at the best would be an ornamental one and cannot be utilized by the respondent no. 7 for advancement in his service career. Mr. Purkayastha, learned counsel has further submitted that the said course was undertaken by the respondent no. 7 herein while he was so serving in the said school in question, without taking any leave and further, no permission was taken by the respondent no. 7 from the departmental authorities for being permitted to pursue the said course.

**4.** In the above premises, Mr. Purkayastha, learned counsel for the petitioner had relied upon the case of *Mukta Ram Deka & Ors. Vs. The State of Assam & Ors.*, reported in (2013) 4 GLT 528.

**5.** Per contra, Mr. A. Deka, learned counsel for the respondent no. 7 submits that the B.Ed degree as acquired by the respondent no. 7 was so acquired from the Gauhati University after having undergone a course of study from Baihata Chariali B.Ed College, Kamrup, which is an institution recognized by the NCTE. Mr. Deka, learned counsel has submitted that the said College was established in the year 1994 and was conducting courses on having received affiliation from the Gauhati University. It is submitted that the Baihata Chariali B.Ed College authorities had submitted an application for recognition of the institution before the Regional Director,

Eastern Regional Committee of NCTE on 02.05.1997, which was contended to be within the extended period of time as mandated for submission of applications for the concerned institutions by the NCTE. It is further contended that the last date for receipt of applications for the purpose of recognition of an institution was thereafter extended by NCTE up to 18.08.1997.

**6.** Mr. Deka, learned counsel by referring to a communication dated 24.02.1998, brought on record by way of an affidavit filed by the respondent no. 7, wherein, the NCTE authorities had contended that the application for recognition of the institution along with the subsequent representation made in the matter by the institution on 24.02.1998 was under consideration by the Eastern Regional Committee of the NCTE and pending a final decision in the matter, the said institution was permitted to continue to offer courses for the session 1997-1998 with the intake as approved by the University/State Govt./Board as the case may be. It is further contended on behalf of the respondent no. 7, that the NCTE authorities had accorded provisional recognition to the said B.Ed College, vide its order dated 25.11.1998 and the respondent no. 7 had completed his course of study for the B.Ed degree in the year 1998. Accordingly, it is contended that the course of study mandated for obtaining the B.Ed degree by the respondent no. 7 was so undergone from an institution recognized by the NCTE and there exists no infirmity in the B.Ed degree course as pursued by the respondent no. 7 herein.

**7.** Mr. Deka, learned counsel for the respondent no. 7, has further referred to a judgment and order, dated 12.09.2023, passed by a co-ordinate Bench of this Court in WP(C)/321/2021 (Shri Kamdev Sarma Vs. The State of Assam & 7 Ors.); wherein, in a similar dispute involving the Baihata Chariali B.Ed College, this Court, on examination of the matter, arrived at a conclusion that during the period when the respondent no. 7 herein had proceeded to complete his B.Ed degree course in the said institution, the said institution was a recognized one. Accordingly, Mr. Deka, learned counsel has further contended that the petitioner herein has got no locus to assail the promotion of the respondent no. 7 herein, inasmuch as, on the date of the issuance of the advertisement for the purpose as well as on the date the selection was so made, the petitioner had not acquired his B.Ed degree which was contended to have been acquired only in the year 2019.

**8.** I have heard the learned counsel for the parties and also perused the materials available on record.

**9.** The issue as arising in the present proceeding is as to whether the B.Ed degree as acquired by the respondent no. 7 herein, can be held to be one so acquired by pursuing a course of study in the matter from an institution not recognized by the NCTE. The respondent no. 7 had enrolled for pursuing his B.Ed degree course prior to the date of his appointment as an Assistant Teacher in the said school. The respondent no. 7 was appointed as an Assistant Teacher in Dagaon High School, Kamrup on

21.09.1998 and he had joined his services on 26.09.1998. The respondent no. 7 had pursued the B.Ed degree during the session 1997-1998 and had completed his said degree course in the year 1998.

**10.** A perusal of the communication dated 24.02.1998, issued by the Eastern Regional Committee, NCTE, reveals that the application as submitted by the authorities of Baihata Chariali B.Ed College, being under consideration of the said committee along with a subsequent representation submitted in the matter on 24.02.1998, the said authority had permitted the authorities of Baihata Chariali B.Ed College to continue with its B.Ed course for the session 1997-1998 with the intake as approved by the University/State Govt./Board as the case may be. Accordingly, for the period when the respondent no. 7 had undertaken the said course of study, the said College was already within the purview of the NCTE authorities and it is a settled law that when an application for recognition is pending before the Regional Committee of NCTE for recognition of the institution, the said institution can continue to offer the B.Ed degree course in its institution and such degree course would be a recognized one.

**11.** In this connection, a reference is also made to the pronouncement of the Hon'ble Supreme Court in the case of State of Uttar Pradesh &Ors. Vs. Bhupendra Nath Tripathi & Ors., reported in (2010) 13 SCC 203, wherein, in Paragraph-29, it was held as under:-

"29. Section 14(5) read with Section 14(1) enables the institution offering a

course or training in teacher education on the appointed day to continue the course or training as the case may be during the pendency of the application seeking recognition and even in case of refusal of recognition, the course may have to be discontinued, only at the end of academic session. The institution offering training or course is entitled to award degree or certificate as the case may be.”

**12.** Further, it is seen that a co-ordinate Bench of this Court in the case of Kamdev Sarma (supra) had adjudicated on the issue as to whether the Baihata Chariali B.Ed College was a recognized institution during the period of 1997-1998; and had come to the following conclusion:-

“7. A reading of the said communication dated 24.02.1998, makes it discernable that the NCTE had communicated to the Principal of Baihata Charali B.Ed. College that the application dated 04.02.1998 is stated to be a subsequent representation. If the application dated 04.02.1998 is a subsequent representation, logically it can be inferred that there was also a prior application by the Baihata Charali B.Ed. College. Annexure-2, page-51 in the paper book is the application made by the President/Secretary of Baihata Charali B.Ed. College to the Regional Director of NCTE for grant of recognition, which is dated 02.05.1997. In other words, the date of application made by the Baihata Charali B.Ed. College to the authorities in the NCTE seeking the recognition would have to be accepted to be 02.05.1997. The said fact is also accepted to be correct by the learned counsel for the NCTE that as per their records, the date of application seeking recognition by the Baihata Charali B.Ed. College is 02.05.1997.

8. If the date of application is accepted to be 02.05.1997, where as per the judgment dated 25.02.2021 in WP(C)/3289/2020 the date of application for recognition ought to have been on or before 18.08.1997, in the instant case where the application for recognition by the Baihata Charali B.Ed. College is dated 02.05.1997, a conclusion would have to be arrived that the Baihata Charali B.Ed. College had made their application seeking recognition within the accepted extended date for making such application.

9. In view of such conclusion any B.Ed degree that may have been obtained through the Baihata Chariali B.Ed College would have to be understood under the law to be a valid and acceptable B.Ed degree.”

**13.** In view of the said conclusions as arrived in the matter by a co-ordinate Bench of this Court in the case of Kamdev Sarma (supra) as well as the prescription as contained in the judgment of the Hon’ble Supreme Court of India, in the case of Bhupendra Nath Tripathi (supra), this Court is of the considered view that the B.Ed degree as obtained by the respondent no. 7 was so obtained from an institution recognized by the NCTE authorities and there exists no infirmity in the B.Ed degree as acquired by the respondent no. 7 after pursuing a course of study in Baihata Chariali B.Ed College, Kamrup.

**14.** Having concluded that the respondent no. 7 has acquired his B.Ed degree during the session 1997-1998 from the Baihata Chariali B.Ed College, which is an institution recognized by the NCTE authorities, the promotion as effected to the case of the respondent no. 7 herein to the post of Headmaster of the Dagaon High School, Dagaon, by the Director of Secondary Education, Assam has to be held to be one so effected in respect of a person who possesses the requisite eligibility criteria as mandated under the provisions of the rules holding the field.

**15.** It is further seen that when the process for filling up the post of Headmaster of the school in question was so initiated and the selection held therein, the petitioner had not acquired his B.Ed degree course and

accordingly, he has to be held to be ineligible for being so considered at that relevant point of time for promotion against the post of Headmaster of the said school in question. It is to be noted that the petitioner had acquired his B.Ed degree only on 13.11.2019 and by the time, the selection process as mandated under the rules holding the field for the said post in question was already completed.

**16.** In view of the conclusions as reached by this Court hereinabove, with regard to the factum of Baihata Chariali B.Ed College, Kamrup, being an institution recognized by the NCTE authorities, the decision as relied upon by the petitioner in the present proceedings is not alluded to, inasmuch as, the facts as involved therein is clearly distinguishable from the facts as available in the present proceedings.

**17.** In view of the above conclusions, the contentions as raised by the petitioner in the present proceeding with regard to the B.Ed degree certificate and the consequential promotion of the respondent no. 7 as the Headmaster of the school in question does not merit acceptance and accordingly, the writ petition is held to be devoid of merit and the same stands dismissed. However, there would be no order as to costs.

**JUDGE**

**Comparing Assistant**