GAHC010107552025

2026:GAU-AS:12768

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

Case No. : WP(C)/2736/2025

PRASANTA KUMAR DAS
S/O BHIM KANTA DAS B.ED ASSISTANT TEACHER BONGAON HIGH SCHOOL SIVASAGAR R/O RUDRASAGAR PO RUDRASAGAR DIST SIVASAGAR ASSAM PIN 785665

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL EDUCATION SECONDARY EDUCATION DEPTT ASSAM CIVIL SECRETARIAT BOLCK C DISPUR GUWAHATI ASSAM PIN 781006

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA GUWAHATI ASSAM PIN 781019

3:THE INSPECTOR OF SCHOOLS
SIVASAGAR DISTRICT CIRCLE
DIST SIVSAGAR ASSAM PIN 78564

Advocate for the Petitioner : MR. B PURKAYASTHA, MR. S SUTRADHAR,MR. J P BARUAH

Advocate for the Respondent : SC, SEC. EDU.,

Linked Case : WP(C)/2714/2025

NABIN CHANDRA DAS
S/O LOHIT CH DAS B ED INCHARGE HEADMASTER CUM ASSISTANT

TEARCHER GUIYA HIGH SCHOOL KAMRUP R/O RANGIA WARD NO 7 PO RANGIA DIST KAMRUP ASSAM PIN 781354

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL EDUCATION SECONDARY EDUCATION DEPTT ASSAM CIVIL SECRETARIAT BOLCK C DISPUR GUWAHATI ASSAM PIN 781006

2:THE DIRECTOR OF SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI ASSAM PIN 781019

3:THE INSPECTOR OF SCHOOLS
KAMRUP DISTRICT CIRCLE
AMINGAON DIST KAMRUP ASSAM PIN 781039

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND ORS

Linked Case : WP(C)/2592/2026

SMTI BARNALI SARMAH
W/O TAPAN SARMA
PRESENTLY SERVING AS MUSIC TEACHER
GEETANAGAR HIGH SCHOOL
KAMRUP M
RO HOUSE NO 46
ZH PATH
9TH BYELANE
PUB SARUMATARIA
HENGRABARI
KAMRUP M
GHY
ASSAM
PIN 781036

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION (SECONDARY EDUCATION DEPARTMENT)

ASSAM (CIVIL) SECRETARIAT
BLOCK-C
DISPUR
GUWAHATI
ASSAM
PIN-781006.

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
GHY
ASSAM
PIN 781019

3:THE INSPECTOR OF SCHOOLS
KAMRUP (M) DISTRICT CIRCLE
PANBAZAR
DIST KAMRUP (M)
ASSAM
PIN 781001

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 2 ORS.

Linked Case : WP(C)/2716/2025

KULEN TALUKDAR
S/O LT UDAY TALUKDAR B ED INCHARGE HEADMASTER CUM ASSISTANT TEACHER SANKARDEV HIGH SCHOOL KALIBARI KAMRUP R/O KALUBARI PO KALUBARI DIST KAMRUP ASSAM PIN 781127

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL EDUCATION SECONDARY EDUCATION DEPTT ASSAM CIVIL SECRETARIAT BOLCK C DISPUR GUWAHATI ASSAM PIN 781006

2:THE DIRECTOR OF SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI ASSAM PIN 781019

3:THE INSPECTOR OF SCHOOLS
KAMRUP DISTRICT CIRLCLE

AMINGAON DIST KAMRUP ASSAM PIN 781039

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND ORS

Linked Case : WP(C)/2739/2025

FAKARUDDIN ALI
S/O LT UDAY TALUKDAR B.ED ASSISTANT TEACHER BARUAJHAR HIGHER SECONDARY BARUAJHAR DARRANG R/O NOMATI PO DALPAM BECHIMARI DIST DARRANG ASSAM PIN 784514

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL EDUCATION SECONDARY EDUCATION DEPTT ASSAM CIVIL SECRETARIAT BOLCK C DISPUR GUWAHATI ASSAM PIN 781006

2:THE DIRECTOR OF SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI ASSAM PIN 781019

3:THE INSPECTOR OF SCHOOLS
DARRANG DISTRICT CIRCLE
MANGALDAI DIST DARRANG ASSAM PIN 784529

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND ORS

Linked Case : WP(C)/3554/2025

BIKASH BORAH
S/O DOLAN BORAH
M.A.
B.ED.
SENIOR MOST ASSISTANT TEACHER
JAMUGURI HIGHER SECONDARY SCHOOL
SONITPUR
R/O VILL- PATOLARCHOOK
P.O.- JAMUGURI HAT
DIST- SONITPUR

ASSAM
PIN-784180

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION (SECONDARY EDUCATION DEPARTMENT)
ASSAM (CIVIL) SECRETARIAT
BLOCK-C
DISPUR
GUWAHATI
ASSAM
PIN-781006

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
ASSAM
PIN-781019

3:THE INSPECTOR OF SCHOOLS
SONITPUR DISTRICT CIRCLE
TEZPUR
DIST- SONITPUR
ASSAM
PIN-784001

4:MD. FIROZ ANSARI
PRINCIPAL I/C
JAMUGURI HIGHER SECONDARY SCHOOL
JAMUGURIHAT
P.O.- JAMUGURI HAT
DIST- SONITPUR
ASSAM
PIN-784180

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 3 ORS.

Linked Case : WP(C)/2733/2025

MUNIN GOGOI
S/O LT LAKHI GOGOI B.ED GRADUATE TEACHER KENDUGURI HIGH SCHOOL SIBASAGAR R/O SIMALUGURI TIPOMIA VILL PO SILASAKU DIST SIVASAGAR ASSAM PIN 785686

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL EDUCATION SECONDARY EDUCATION DEPTT ASSAM CIVIL SECRETARIAT BOLCK C DISPUR GUWAHATI ASSAM PIN 781006

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA GUWAHATI PNIN 781019

3:THE INSPECTOR OF SCHOOLS
SIVASAGAR DISTRICT CIRCLE
DIST SIVASAGAR ASSAM PIN 785640

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND ORS

Linked Case : WP(C)/2737/2025

MADHAB CHANDRA KALITA
S/O JOGESWAR KALITA
MA B.ED SENIOR MOST ASSISTANT TEACHER GOTANAGAR NAMBARI HIGH SCHOOL KAMRUP METRO MALIGAON RAILWAY HEADQUARTERS DIST KAMRUP METRO ASSAM PIN 781011

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL EDUCATION SECONDARY EDUCATION DEPTT ASSAM CIVIL SECRETARIAT BOLCK C DISPUR GUWAHATI ASSAM PIN 781006

2:THE DIRECTOR OF SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI 19

3:THE INSPECTOR OF SCHOOLS KAMRUP METRO DIST CIRCLE
PANBAZAR DIST KAMRUP METRO ASSAM PIN 781001

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND ORS

Linked Case : WP(C)/2741/2025

JAYASHREE BARUAH DUTTA ALIAS JAYASHREE BARUAH
W/O AJIT KUMAR DUTTA B.ED ASSISTANT TEACHER KALOOGAON HIGH SCHOOL SIVASAGAR R/O NAMTAI GAON PO KALOOGAON DIST SIVASAGAR ASSAM PIN 785686

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL EDUCATION SECONDARY EDUCATION DEPTT ASSAM CIVIL SECRETARIAT BOLCK C DISPUR GUWAHATI ASSAM PIN 781006

2:THE DIRECTOR OF SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI ASSAM PIN 781019

3:THE INSPECTOR OF SCHOOLS
SIVASAGAR DISTRICT CIRCLE
DIST SIVASAGAR ASSAM PIN 785640

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND ORS

Linked Case : WP(C)/2717/2025

GANESH BARMAN
S/O NEULA RAM BARMAN MA B ED ASSISTANT TEACHER UTTAR DHARMAPUR HIGHER SECONDARY SCHOOL GAMARIMURI NALBARI R/O BALIKARIA KRISHNA NAGAR NEAR DIC OFFICE WARD NO 13 PO BALIKARIA DIST NALBARI ASSAM PIN 781341

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL

EDUCATION SECONDARY EDUCATION DEPTT ASSAM CIVIL SECRETARIAT BOLCK C DISPUR GUWAHATI ASSAM PIN 781006

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA GUWAHATI ASSAM 781019

3:THE INSPECTOR OF SCHOOLS NALBARI DISTRICT CIRCLE
NALBARI ASSAM PIN 781039

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND ORS

Linked Case : WP(C)/2735/2025

PROBIN DUTTA
S/O LT NARAM DUTTA B.ED INCHARGE HEADMASTER CUM ASSISTANT TEACHER HATIPOTI HIGH SCHOOL SIVASAGAR R/O NAZIRA TOWN WARD NO 2 PO NAZIRA DIST SIVASAGAR ASSAM PIN 785685

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL EDUCATION SECONDARY EDUCATION DEPTT ASSAM CIVIL SECRETARIAT BOLCK C DISPUR GUWAHATI ASSAM PIN 781006

2:THE DIRECTOR OF SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI ASSAM PIN 781019

3:THE INSPECTOR OF SCHOOLS
SIVASAGAR DISTRICT CIRCLE
DIST SIVASAGAR ASSAM PIN 785640

Advocate for : MR. B PURKAYASTHA
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND ORS

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 02-09-2026

Heard Mr. B. Purkayastha, learned counsel for the petitioners. Also heard Mr. B. Kaushik and Ms. H. Terangpi, learned standing counsel, Secondary Education, Assam appearing for the respondents.

2. The issue arising in the above noted writ petitions being similar and the law applicable also being the same, as agreed to by the learned counsel for the parties, the writ petitions were taken up for hearing analogously and are being disposed of by the present order.

3. The petitioners in the above noted writ petitions have presented a challenge to show cause notices issued to them, invoking the provisions of Rule 9 of the Assam Services (Discipline & Appeal) Rules, 1964. The show cause notices were so issued to the petitioners basing on a communication dated 19-12-2023, issued by the Director, Secondary Education, Assam in this connection.

4. As projected in the writ petitions, the petitioners who are Graduate Teachers, had pursued their respective B.Ed. course from the Indira Gandhi National Open University (IGNOU) at different points of time. The petitioners, after acquiring the said B.Ed. degree, were continuing in their services. The Director of Secondary Education, Assam, vide a communication dated 19-12-2023, required the jurisdictional Inspector of Schools, to institute appropriate departmental proceeding, against the teachers, who had prosecuted and acquired academic/ professional qualification during their service tenure, without

obtaining prior permission from the departmental authorities. The proceedings were required to be so instituted against the said teachers for having violated the provisions of Rule 13 of the Assam Civil Services (Conduct) Rules, 1965. In pursuance to the said communication, the jurisdictional Inspector of Schools, proceeded to issue show cause notices to each of the petitioners, invoking the provisions of Rule 9 of the Assam Services (Discipline & Appeal) Rules, 1964 (hereinafter referred to as the Rules of 1964) alleging, therein, that the petitioners having prosecuted the studies for acquiring the B.Ed. degree from the IGNOU, without obtaining prior permission from the departmental authorities, a misconduct was committed by them, on account of violation of the provisions of Rule 13 of the Assam Civil Services (Conduct) Rules, 1965 (hereinafter referred to as the Rules of 1965).

4.1. The petitioners being aggrieved by the institution of the departmental proceedings in their respective cases, have instituted the above noted writ petitions, assailing the said show cause notices issued to them.

5. Mr. B. Purkayastha, learned counsel for the petitioners, at the outset, by referring to the show cause notices issued to the petitioners, in the above noted writ petitions, has contended that the B.Ed. degree, as pursued by the petitioners in each of the above noted writ petitions, were so pursued by them in the online mode, from the IGNOU. Mr. Purkayastha by referring to the dates, on which the petitioners, in the above noted writ petitions, have acquired the said degree, has submitted that the respondent authorities have instituted proceedings against each of them, of having violated the provisions of Rule 13 of the Rules of 1965, after long lapse of time without, however, explaining the

delay so occasioning in institution of the departmental proceedings in the matter.

5.1. Mr. B. Purkayastha, learned counsel for the petitioners, by referring to the show cause notices, issued to each one of the petitioners in the above noted writ petitions, has submitted that, therein, the respondent authorities have not alleged that, on account of the petitioners pursuing their B.Ed. degree from the IGNOU, a disruption had occasioned in the school, in question, inasmuch as, the petitioners were found to have not discharged their duties in the manner required. He submits that no such allegations having been levelled against the petitioners, the petitioners after acquiring their respective B.Ed. degrees, having been permitted to continue in their respective services, the institution of the departmental proceedings, only on the ground of violation of the provisions of Rule 13 of the Rules of 1965, would not be maintainable and on the said count the show cause notices impugned, in the above noted writ petitions, would mandate interference.

5.2. Mr. Purkayastha, has further submitted that, although violation of Rule 13 of the Rules of 1965, would also indicate commission of misconduct in the matter by the teachers concerned, he submits that, in the facts and circumstances involved, the Disciplinary Authorities of the petitioners, in the above noted writ petitions, having not alleged that the petitioners, during the time they had pursued the said course, had remained unauthorisedly absent, no departmental proceeding was permissible to be instituted against the petitioners. He submits that it was also not alleged that the degree acquired by the petitioners had got no connection with the sphere of duties assigned to each of the petitioners. He submits that it was also not alleged that on account of pursuing by the petitioners of the course of study, involved, the interest of the students

pursuing their studies in the school concerned, during the period the petitioners, in the above noted writ petitions, had pursued their respective B.Ed. degrees, had suffered.

5.3. Mr. Purkayastha, in the above premises, has submitted that, the initiation of the departmental proceedings, only for violation of Rule 13 would not be permissible and the impugned show cause notices issued to the petitioners, would mandate interference, by this Court.

6. Per contra, Mr. B. Kaushik and Ms. H. Terangpi, learned standing counsel, Secondary Education Department, Assam, appearing for the respondents have submitted that, on the petitioners in the above noted writ petitions, pursuing their respective B. Ed. courses, without receiving prior permission from the departmental authorities, a violation of the provisions of Rule 13 of the Rules of 1965 and accordingly, commission of misconduct by each one of the petitioners being borne out from the records, the institution of the departmental proceedings against them, in the matter was not erroneous.

6.1. The learned counsel for the respondents, by referring to the impugned show cause notices, issued to each of the petitioners, in the above noted writ petitions, have submitted that, on a perusal of the same, it would be evident that the allegations levelled against the petitioners, therein, reflect commission of a misconduct and accordingly, the Disciplinary Authority of the petitioners, in the above noted writ petitions, was within its jurisdiction to institute such proceedings. The learned counsel for the respondents have submitted that, the petitioners, in the above noted writ petitions, having not alleged any malafide against their respective Disciplinary Authorities in issuance of the show cause

notices impugned in the writ petitions and further having not disputed the fact that they had prosecuted the B.Ed. course of study, without obtaining prior permission, the challenge presented to the impugned show cause notices, must necessarily fail.

6.2. It is submitted that the above noted writ petitions are premature, inasmuch as, the challenge is only to the issuance of the show cause notice and not to a penalty imposed on conclusion of such departmental proceedings, instituted against the petitioners. It is submitted that the power of this Court for examining the validity of a show cause notice is circumscribed and in the event, a misconduct is borne out, from the allegations levelled against the delinquent, in the show cause notice, the same would not be permissible to the interfered with, at that stage. The learned counsel for the respondents submits that on conclusion of the departmental proceedings, in the event any penalty is so imposed upon the petitioners, or any of them, it would be open for the petitioners to assail such penalties on grounds authorized under the law. Accordingly, it is submitted that a dismissal of the present writ petition would not cause a prejudice to the interest of the petitioners.

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

8. The challenge in the present writ petition is initially to a communication dated 19-12-2023, issued by the Director, Secondary Education, Assam, requiring the jurisdictional Inspector of Schools to institute departmental proceedings against the teachers who were found to have prosecuted and acquired academic/ professional qualification, during their service tenure without obtaining previous permission from the appointing authority. It was

highlighted in the said communication dated 19-12-2023 that such course of action adopted by the teachers concerned had the effect of violating the provisions of Rule 13 of the Rules of 1965 and accordingly, a misconduct was borne out against such teachers, necessitating the institution of departmental proceedings against them.

9. For the purpose of appreciating the directions passed by the Director of Secondary Education, Assam vide said communication dated 19-12-2023, this Court has perused the provisions of Rule 13 of the Rules of 1965. Rule 13 of the said rules being relevant to the issue arising in the above noted writ petitions, the same is extracted, here-in-below:-

> "***(13) Prosecution of studies by Government servants in Educational Institution***.
>
> *No Government Servant while in Government service shall join or attend any educational institution for the purpose of preparing himself for or shall appear at any examination of a recognised Board or University without obtaining previous permission from the appointing authority:*
>
> *Provided that the appointing authority may refuse such permission in the interest of public service on consideration that such joining or attending any educational institution or appearing at any examination may create dislocation of work or stand in the way of the efficient discharge of his duties by the Government Servant concerned. Permission or study leave or any other kind of leave granted for the purpose of joining or attending any educational institution shall be subject to the condition that the Government servant shall not seek election to or hold any elective office in Students Unions or other Associations of Students except Associations formed for purely literary academic or athletic pursuits.*
>
> *Explanation. - Normally no one should be allowed to continue studies beyond the Degree Course. Persons doing executive work should not normally be given permission to prosecute studies. Moreover, where giving permission means leaving a big gap in the working strength of the office, permission may be refused by the Appointing Authority at his discretion."*

10. On a perusal of the provisions of Rule 13 of the said Rules of 1965, it is found that, therein, a bar has been imposed upon a Government servant, while in service to not join

or attend any educational institution for the purpose of preparing himself for or to appear at any examination of a recognized Board or University, without obtaining previous permission from the appointing authority. The proviso to Rule 13, further provides that the appointing authority may refuse such permission, in the interest of public service, on consideration that such joining or attending any educational institution or appearing at any examination may create dislocation of work or stand in the way of efficient discharge of his duties by the Government servant concerned. The explanation to the provisions of Rule 13, further stipulates that normally one should not be allowed to continue studies beyond the Degree Course. Moreover, where granting such permission, would lead to a big gap in the working strength of an office, the permission was permissible to be refused by the Appointing Authority at his discretion.

11. On a close perusal of the provisions of Rule 13 of the Rules of 1965, this Court discerns, therefrom, that only on account of a Government servant prosecuting a course of study without prior permission, a misconduct can be said to have been committed. The provisions of Rule 13, envisages that the competent authority while considering an application of an employee to prosecute a course of study, is to reckon as to whether grant of such permission, would lead to a disruption occasioning in the organization, wherein, such Government servant is working and/ or whether such course of study would be beneficial to the institution concerned and accordingly, obtaining of a prior permission by such Government servant, for pursuing a choice course of study in a recognized Institution/ Board/ University was conceptualized.

12. Accordingly, the intent behind the provisions of Rule 13, having been noticed, this

Court would now examine the communication dated 19-12-2023. As noticed, hereinabove, in the said communication dated 19-12-2023, the departmental proceedings have been directed to be instituted by the jurisdictional Inspector of Schools, in case of teachers, who were found to have acquired academic/ professional qualifications, during their service tenure, without obtaining previous permission from the appointing authorities. No further stipulation, in this connection, is found to have been made in the said communication. A flaw is noticed by this Court, in the said communication dated 19-12-2023, inasmuch as, while requiring the jurisdictional Inspector of Schools to institute departmental proceedings, it has not been required to also examine as to whether on account of pursuing the course of study by the teachers concerned, there was any dislocation of work or the teacher concerned was prevented from effectively discharging his duties during the period, he has pursued the course, in question. In the considered view of this Court, what is also primarily required to be established when misconduct under Rule 13 is so alleged, is the fact that on account of the teacher pursuing the course of study, an adverse effect had occasioned in the school concerned. It is only on establishment of the said two aspects of the matter that a penalty would be permissible to be imposed upon the teacher concerned. Mere prosecution of a course of study for acquiring an otherwise mandatory educational qualification/ professional qualification by a teacher, by itself cannot be deemed to be a standalone consideration for alleging commission of misconduct by the teacher, inasmuch as, in the event the teacher had applied for obtaining requisite permission from the competent authority of the department, the competent authority would have to examine the matter to ascertain, as

to whether the absence of the teacher, from the school for pursuing said course would have any adverse impact on the students studying in the said school. Accordingly, when an allegation is levelled to a teacher prosecuting a course of studies, without obtaining a prior permission, it has also to be alleged against the teacher concerned, that his such absence in pursuing their studies had actually caused disruption in the studies of the students in the school, in question. Accordingly, in absence of the said prescription being made in the communication dated 19-12-2023, it is found that the jurisdictional Inspector of Schools while acting upon the said communication dated 19-12-2023 and instituting proceedings against the erring teachers, had also not levelled any allegations, therein, (as would be discussed, herein, later), against the teachers and the only allegation levelled was of violation of the provisions of Rule 13 of the Rules of 1965.

13. In view of the above discussions, this Court having noticed a lacking in the communication dated 19-12-2023, finds that basing solely on the said communication and acting within the limits, thereof, departmental proceedings, so instituted, may warrant interference from this Court. Having held so, this Court refrains from interfering with the said communication dated 19-12-2023, with the expectation that the implementation of the directions contained, therein, would at least in the future be so done by construing all relevant aspects which have been discussed, hereinabove, and thereafter, appropriate proceedings, as would be mandated would stand instituted against the persons alleged to have committed a misconduct, in connection with Rule 13 of the Rules of 1965.

14. This Court having drawn the said conclusions, would now examine the challenge presented, in the above noted writ petitions, to the show cause notices, wherein, a

singular allegation of commission of misconduct of violation of the provisions of Rule 13 of the Rules of 1965 on the ground of not receiving prior permission, from the departmental authorities, is found to have been levelled against the petitioners, herein.

15. As noticed, hereinabove, the petitioners had pursued their respective B.Ed. courses. The B.Ed. course as pursued by the petitioners cannot be disputed by the respondents to be a course of study or a degree acquired, which would not in any manner advance the quality of teaching required to be imparted by the teacher concerned. Rather as the Service Rules stand today, B.Ed. qualification is one of the mandatory qualifications required to be possessed by a candidate for being appointed as a teacher. The petitioners, in the above noted writ petitions, were so appointed during the regime, wherein, for the purpose of appointment as a Graduate Teacher, B.Ed. degree, was not a mandatory qualification. However, for further advancement in their service career, considering the provisions of the Rules holding the field, more particularly, Assam Secondary Education (Provincialised Schools) Service Rules, 2018, for the purpose of promotion to the cadre of Headmaster in a Secondary School and for appointment as a Principal in Higher Secondary Schools/ Senior Secondary Schools, possession of a B.Ed. degree is a mandatory requirement.

16. The Hon'ble Supreme Court in the case of ***State of Maharashtra Vs. Vikas Sahebrao Roundale***, reported in ***(1992) 4 SCC 435*** emphasizing the role of a teacher as a role model and the requirement for continuing education for teachers held thus;

> *"The teacher plays pivotal role in moulding the career, character and moral fibres and aptitude for educational excellence in Impressive young children. Formal education needs proper equipping of the teachers to meet the challenges of the*

day to impart lessons with latest techniques to the students on secular, scientific and rational outlook. A well-equipped teacher could bring the needed skills and intellectual capabilities to the students in their pursuits. The teacher is adorned as Gurudevobhava, next after parents, as he is a principal instrument to awakening the child to the cultural ethos, Intellectual excellence and discipline. The teachers, therefore, must keep abreast of ever-changing techniques, the needs of the society and to cope up with the psychological approach to the aptitudes of the children to perform that pivotal role. In short teachers need to be endowed and energised with needed potential to serve the needs of the society. The qualitative training in the training colleges or schools would inspire and motivate them into action to the benefit of the students. For equipping such trainee students in a school or a college, all facilities and equipments are absolutely necessary and institutions bereft thereof have no place to exist nor entitled to recognition. In that behalf compliance of the statutory requirements is insisted upon. Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education.

21. Once again reiterating the high station of the teachers, their pivotal role in nation building and the imperative of high standards in training of teachers, the Hon'ble Supreme Court in the case of Andhra Kesari Educational Society v. Director of School Education, reported at (1989) 1 SCC 392 opined:

> *"Before parsing with the case, we should like to add a word more. Though teaching is the last choice in the job market, the role of teachers is central to all processes of formal education. The teacher alone could bring out the skills and intellectual capabilities of students. He is the "engine" of the educational system. He is a principal instrument in awakening the child to cultural values. He needs to be endowed and energised with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefiter. He must keep himself abreast of everchanging conditions. He is not to perform in a wooden and unimaginative way. He must eliminate fissiparous tendencies and attitudes and infuse nobler and national ideas in younger minds. His involvement in notional integration is more important, indeed indispensable. It is, therefore, needless to state that teachers should be subjected to rigorous training with rigid scrutiny of efficiency. It has greater relevance to the needs of the day. The ill-trained or sub-standard teachers would be detrimental to our educational system; if not a punishment on our children. The Government and the University must, therefore, take care to see that Inadequacy in the training of teachers is not compounded by any extraneous consideration.*

22. The good teacher is a perennial student. Quest for learning never ends in a good student. Continuous pursuit of knowledge by teachers deepens understanding and widens horizons. Intellectual capital created by continuous learning even after securing employment, becomes an asset for the institution. The

further learning of the teachers in fact endures to the benefit of the students. The teachers can impart what the know and have learnt. The quality of teaching is proportional to the depth of learning of the teachers. The environment or ecology of the institution and the system has to encourage and support teachers who are engaged in higher learning."

17. The said position, noticed by this Court with regard to the necessity of a teacher to be a perennial student, is not an open ended license given to a teacher and the same must be subject to a caveat. The teacher concerned, for prosecuting a course of study, must receive prior permission from the competent authority and only after having receiving such permission, it would be open to the teacher concerned to pursue the course of study. Such a caveat is provided only to ensure that the students of the school concerned are not put to a disadvantage on account of absence of such teacher from the school concerned while pursuing a higher course of study. While an application is submitted by a teacher concerned, seeking permission from the competent authority for pursuing a course of study, the competent authority, while also appreciating as to whether the said course of study would advance the capability of the teacher concerned and it would be beneficial to the students, would also examine as to whether the teacher concerned can be spared for the purpose, considering the workload required to be shouldered by such teacher.

18. The learned counsel for the petitioners, for the purpose of assailing the impugned show cause notices, had raised a ground to the effect that the show cause notices were issued to the petitioners in each of the writ petitions much after the date they had acquired the B.Ed. qualification from the IGNOU. To appreciate the said contention of each of the petitioners, the petitioners had acquired their respective B.Ed. qualification

and the date on which they were issued with the show cause notices is required to be noticed. The said particulars are set out, herein, for ready reference, in a tabular form:-

Sl. No.	Case No. & Name of the petitioner	Date of acquiring B.Ed. degree	Date of issuance of show cause under Rule 9 of the Rules of 1964
1.	W.P.(C) No. 2736/2025 Prasanta Kr. Das	IGNOU, 2016	05-12-2024
2.	W.P.(C) No. 2714/2025 Nabin Ch. Das	IGNOU, 2001	29-03-2025
3.	W.P.(C) No. 2716/2025 Kulen Talukdar	IGNOU, 2015	29-03-2025
4.	W.P.(C) No. 2717/2025 Ganesh Barman	IGNOU, 2016	18-03-2025
5.	W.P.(C) No. 2733/2025 Munin Gogoi	IGNOU, 2015	17-04-2025
6.	W.P.(C) No. 2735/2025 Probin Dutta	IGNOU, 2015	05-12-2024
7.	W.P.(C) No. 2737/2025 Madhab Ch. Kalita	IGNOU, 2016	22-10-2024
8.	W.P.(C) No. 2739/2025 Fakaruddin Ali	IGNOU, 2019	23-04-2025
9.	W.P.(C) No. 2741/2025 Jayashree Baruah Dutta @ Jayashree Baruah	IGNOU, 2006	05-12-2024
10	W.P.(C) No. 3554/2025 Bikash Borah	IGNOU, 1996	29-03-2025
11.	W.P.(C) No. 2592/2026 Smti. Barnali Sarmah	IGNOU, 2014	15-02-2025

19. A perusal of the dates, on which the petitioners had acquired their B.Ed. degree and the dates, on which the departmental proceedings were instituted against them vide issuance of the impugned show cause notices, would go to reveal that, there was a long delay after the acquisition of the B.Ed. degree by the petitioners, in institution of

proceedings against them invoking the provisions of Rule 9 of the Rules of 1964. The respondents have not explained the delay occasioning in the matter. It is a settled position of law that, an unexplained and inordinate delay in institution of a departmental proceeding, erodes the very foundation of a fair departmental proceeding, inasmuch as, it is now held to have caused prejudice to the employee concerned. The employee, may take a plea of having received such permission to prosecute the course of study involved from an authority of the department including the Headmaster/ Principal of the said school, the delay occasioning in the matter may led to a situation, wherein, the person granting such permission may not be in service and even in the world. The said situation may also lead to an anomalous situation developing, when such teacher produce communications and/ or approval projected to have been issued by such authority, which would now not be permissible to be verified. Accordingly, the delay occasioning in institution of proceedings, against the petitioners, in the above noted writ petitions, in the considered view of this Court is fatal.

20. The above position, when examined in the light of the fact that, there is no allegation in the show cause notices issued to the petitioners that they had neglected and/ or in any manner was deficient in discharge of their assigned duties, during the period they had pursued the course, in question, this Court is of the considered view that, only on the ground of absence of a prior permission, a disciplinary action, cannot be instituted against the petitioners, herein. Such a view is taken by this Court, appreciating the fact that nothing has been brought on record, to demonstrate that, the petitioners, in the above noted writ petitions, had pursued the course of study, undermining the primary

duties required to be discharged by them in the school, i.e. of teaching of students, therein, in a regular manner. Further, no material has been brought on record to demonstrate that during the period, the petitioners, in the above noted writ petitions, had pursued the course of study, they had remained unauthorisedly absent from duties. Further, the respondents have also not alleged that the petitioners having pursued the said course of study had concealed the fact from the respondents.

21. From the show cause notices assailed, in the above noted writ petitions, this Court finds that, the allegation is of a procedural lapse of not seeking prior permission, without a further allegation of the petitioners, therein, committing a dereliction of duty. As is well understood, misconduct in service jurisprudence, connotes a transgression of an established and a definite rule of action, commission of a forbidden act, unlawful behavior, which is willful in character or a course of conduct which is contrary to discipline and good behavior, the allegation levelled against the petitioners, herein, in not seeking a prior permission for pursuing the course of study, without there being an allegation of the petitioners not discharging their duties in the manner required, during the period they had pursued such course of study, the departmental proceedings instituted against the petitioners, in the considered view of this Court, is a wholly disproportionate action. The non-procurement of the petitioners of a prior permission, in the considered view of this Court, is an irregularity that is permissible to be regularized and/ or condoned by the respondent authorities. The period for prosecuting the studies by the petitioners is already over and the same cannot be undone. This Court finds that the departmental proceedings, instituted against the petitioners, in pursuance to the communication dated

19-12-2023, issued by the Director of Secondary Education, Assam, was only a mechanical exercise without ascertaining as to the exact nature of misconduct required to be alleged against the petitioners, herein.

22. This Court at this stage, would notice that the B.Ed. degree acquired by each of the petitioners, herein, was so acquired after a course of study undergone by them in the online mode from IGNOU. A Coordinate Bench of this Court in the case of ***Jayanta Neog & Ors. Vs. State of Assam & Ors.*** (judgment and order dated ***11-04-2025*** in ***W.P. (C) 4205/2024***) in this connection had issued the following directions:-

> "*47. Accordingly, the determinations made hereinabove are summarised as follows:*
>
> *(i) Permission to prosecute studies by a government servant in an educational institution is a sine qua non in terms of Rule 13 of the Rules, 1965.*
>
> *(ii) Such permission can be refused in terms of the proviso to Rule 13 of the Rules 1965, when such prosecution creates dislocation of the work or stands in the way of efficient discharge of duties by the government servant and leaves a big gap in the working strength.*
>
> *(iii)The object of recognition of Scheduled institutions (Schedule-III) for pursuing higher studies through distance mode is to facilitate the serving teachers to acquire the required professional and educational qualifications, so that the standard of imparting education is maintained without hampering regular classes of schools and/or without disturbing the day-to-day work.*
>
> *(iv) A conjoint reading of both the rules (Rule 13 of the Rules, 1965 as well as Schedule-III of the Rules, 2018) and the determination as recorded hereinabove, leave no room of doubt in the mind of this Court that prosecuting higher studies by serving teachers without permission from the scheduled institutions as enumerated under Schedule-III of the Rules, 2018, cannot be termed as a misconduct in terms of Rule 13 of the Rules, 1965.*
>
> *(v) Permission mandated under Rule 13 of the Rules 1965 cannot be made applicable in prosecuting studies by Teachers (whose service conditions are controlled by Rules, 2018) through distance mode from the scheduled Universities/institutions enumerated under Schedule-III of the Rules, 2018.*
>
> *(vi) Determination made in Mouchumi Saharia (supra) cannot be termed as*

any direction to the authorities in Education Department to initiate departmental proceeding against all the teachers, who prosecuted studies through distance mode from the scheduled institutions incorporated in Schedule-III of the Rules, 2018.

(vii) When there is no dispute that the petitioners had obtained their degrees through distance mode from KKHSOU, IDOL, Gauhati University, Dibrugarh University and Assam University in terms of prescriptions made under OM dated 28.07.2014 and OM dated 22.11.2019, therefore, Rule 13 of the Rules, 1965, cannot be made applicable to these teachers taking clue from observation made in paragraph 4 of Mouchumi Saharia (Supra).

(viii) Accordingly, if any proceeding has already been initiated against the petitioners during the pendency of these two petitions, the same shall fail."

23. This Court, on a perusal of the conclusions drawn by the Coordinate Bench of this Court, leading to the passing of the directions, as noticed, hereinabove, is in respectful agreement with the same and on applying the said decision to the facts obtaining, in the above noted writ petitions, an additional ground for interfering with the show cause notices issued to the petitioners is found to exist, i.e. the prosecution by the petitioners of their respective B.Ed. course from IGNOU, in the online mode, without prior permission, cannot now be treated to be a misconduct.

24. In view of the above discussions, this Court is of the considered view that the petitioners, in the above noted writ petitions, have made out a *prima facie* case for interference with the show cause notices, issued to them and impugned, in the above noted writ petitions. Accordingly, the show cause notices issued to each of the petitioners, in the above noted writ petitions, stand, set aside.

25. The consequential benefits now receivable by each of the petitioners, on account of interference with the show cause notices, issued to them shall be considered and granted to the petitioners by the departmental authorities, in accordance with law.

26. Before parting with the records, this Court would clarify that interference made with the show cause notices impugned, in the above noted writ petitions, was so made only on the facts existing in the matter and on a finding that there was no allegations levelled against the petitioners of having undermined their duties while prosecuting their B.Ed. course. In a given situation, wherein, the departmental authorities promptly institute proceeding against erring teachers who proceed to prosecute course of study in violation of Rule 13 of the Rules of 1965, the conclusions drawn by this Court, hereinabove, would not bar the institution of such proceedings, in accordance with law, against such erring teachers.

27. With the above observations and directions, the above noted writ petitions, stand disposed of.

JUDGE

Comparing Assistant