

GAHC020000932021



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

Case No. : WP(C)/41/2021

SHRI INOTO Y. SUMI AND 17 ORS
R/O POTTERLANE COLONY,
KOHIMA, NAGALAND

2: KILANGNARO YADEN
R/O PARAMEDICAL COLONY
KOHIMA
NAGALAND

3: TAKAYANGLA
R/O HOSPITAL COLONY
MOKOKCHUNG
NAGALAND

4: RUKUWEWE-U KRONU
R/O BETHEL COLONY
PHEK
NAGALAND

5: THUNGJAMO HUMTSOE
R/O SECTOR B
WOKHA
NAGALAND

6: PUKHALU
R/O SATHAKHA
AGHUNATO TOWN
ZUNHEBOTO
NAGALAND

7: KEZHANGUNU KHRUOMO
R/O L.KHEL KOHIMA VILLAGE

KOHIMA
NAGALAND

8: VENEKHOLU VADEO
R/O P.R HILL COLONY
KOHIMA
NAGALAND

9: MAONGSUNGLA
R/O NAGA HOSPITAL COLONY
KOHIMA
NAGALAND

10: NEISTUONUO METHA
R/O UPPER MIDLAND COLONY
KOHIMA
NAGALAND

11: SERATO NIENU
R/O JAIL COLONY
CHOZABU
NAGALAND

12: K.T. TOREPKIU
R/O JAIL WARD
KIPHIRE
NAGALAND

13: JUNICHUNG L. SANGTAM
R/O LOWER MIDLAND COLONY
KOHIMA
NAGALAND

14: AREBOU KENT
R/O POTERLANE COLONY
KOHIMA
NAGALAND

15: NEITSHOU MERO
R/O NEW MINISTERS HILL COLONY
KOHIMA
NAGALAND

16: S. LETHERTONG
R/O MISSION WARD COLONY
KOHIMA
NAGALAND

17: ROMINA
R/O OFFICERS HILL COLONY
KOHIMA
NAGALAND

18: MEDOTSO
R/O BETHANY -A COLONY
PHEK
NAGALAN D

VERSUS

STATE OF NAGALAND AND 5 ORS
THROUGH THE CHIEF SECRETARY,
TO THE GOVERNMENT OF NAGALAND,
NAGALAND, KOHIMA

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
NAGALAND
DEPARTMENT OF HIGHER AND TECHNICAL EDUCATION
NAGALAND
KOHIMA

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
NAGALAND
DEPARTMENT OF HEALTH AND FAMILY WELFARE
NAGALAND
KOHIMA

4:THE PRINCIPAL DIRECTOR
GOVERNMENT OF NAGALAND
DIRECTORATE OF HEALTH AND FAMILY WELFARE
NAGALAND

5:THE GENERAL SECRETARY
PARAMEDICAL COUNCIL INDIA
36 PULIN AVENUE
KOLKATA- 700081
WEST BENGAL

6:DR. CHINGYONG
VICE PRINCIPAL(RETIRED)
INDIAN INSTITUTE OF PARA MEDICAL TECHNOLOGY
KOHIMA
NAGALAND
RESIDING AT LONGLENG TOWN

LONGLENG - 798625

NAGALAND

Advocate for the Petitioner : MOA JAMIR, M SOLO,K T SANGTAM

Advocate for the Respondent : GOVT ADV NL,

**BEFORE
HON'BLE MR JUSTICE MRIDUL KUMAR KALITA**

For the Petitioners : Mr. Mr. Moa Jamir, Advocate

For the Respondent : Mr. N. Angami, Sr. Govt. Adv.
: Ms. Lhousino, Advocate
: (for respondent No. 6)

Date of Hearing : **18.03.2025**

Date of Judgment : **25.03.2025**

JUDGMENT & ORDER (CAV)

1. Heard Mr. Moa Jamir, learned counsel for the petitioners. Also heard Mr. N. Angami, learned Senior Government Advocate appearing for the State respondents as well as Ms. Lhousino, learned counsel for the respondent No. 6.

2. This writ petition, under Article 226 of the Constitution of India, has been filed by 18 numbers of petitioners praying for issuance of writ in the nature of mandamus for quashing the reject list issued by respondent No. 4 wherein the petitioners' candidatures in the selection process conducted in pursuant to the Advertisement No. DHFW-5/TRG/COVID-19/LT/2019-20/5027-30 dated 16.07.2020 was rejected. The petitioners have also prayed for directing the respondent's authorities to allow the

petitioners to participate in the aforesaid selection process. A further direction was sought for to recognize the petitioners' Diploma in Medical Laboratory Technology obtained from Indian Institute of Paramedical Technology, Kohima, Nagaland, for any future participation in selection process to the course of Laboratory Technician.

3. The facts relevant for consideration of the instant writ petition, in brief, are that the petitioners herein had obtained Diploma in Medical Laboratory Technology (DMLT) from the Indian Institute of Paramedical Technology, Kohima in different years. The Indian Institute of Paramedical Technology, Kohima was established in the year 2007 as a recognized Institute of SEALDAH Training Society for Medical Research, Kolkata.

4. Subsequently, the Government of Nagaland approved the institute by the Approval No. THE/HE/16-1/2009 and was registered by Registration No. H/RS-4997 under the Government of Nagaland. The Government of Nagaland also issued "No Objection Certificate" for establishment of Indian Institute of Paramedical Technology at Kohima on the basis of inspection report submitted by an officer of the Department of Higher and Technical Education.

5. It is stated in the writ petition that in the year 2011 some of the passed out students of 2009 batch from the Indian Institute of Paramedical Technology, Kohima, faced difficulty in applying for job of Laboratory Technician due to the fact that the said institution was affiliated to SEALDAH Training Society for Medical Research, Kolkata which is not a recognized institute/university. The Principal of Indian Institute of Paramedical Technology, Kohima applied for affiliation from Paramedical Council of India and in pursuant thereto the Paramedical Council of India

by its Letter No. PMCI/KOL/126/11-12 dated 31.07.2012 issued provisional authorization to the said institute for a period of 6 years from the date of granting of regular authorization.

6. In the year 2020, the Principal Director, Government of Nagaland, Directorate of Health and Family Welfare, Nagaland, Kohima (respondent No. 4) issued an Advertisement bearing No. DHFW-5/TRG/COVID-19/LT/2019-2020/5027-30 dated 16.07.2020 inviting applications for 18 numbers of posts of Laboratory Technician with pay matrix of 26400-83600 for a Diploma qualification holder and a pay matrix of 28700-81300 for Graduate and above qualification holder. All the petitioners had applied for the said post along with requisite documents.

7. However, the applications filed by the petitioners were rejected on the ground that they obtained Diploma in Medical Laboratory Technology from an unrecognized University and accordingly a reject list was published to this effect whereby the petitioners' candidatures to the aforementioned posts were rejected on the ground that they had obtained the Diploma in Medical Laboratory Technology from an unrecognized institution.

8. Mr. Moa Jamir, learned counsel for the petitioners has submitted that the petitioners have undergone extensive course while pursuing Diploma in Medical Laboratory Technology and thereafter most of them served as Laboratory Technician on contractual basis in various post under the Government of Nagaland and have gained enough experience in the field ranging from 2 to 11 years. He submits that the Institute of Paramedical Technology, Kohima, Nagaland was approved and

registered with the Government of Nagaland and subsequently provisional authorization was also obtained from the Paramedical Council of India for a period of 6 years in the year 2012, therefore, the said institute cannot be deemed to be an unrecognized institute.

9. However, the learned counsel for the petitioners has fairly submitted that in view of the affidavit-in-opposition filed by the State respondents to the effect that the aforementioned recruitment process has, in the meanwhile, already been concluded, hence, the Prayer "A" and "B" mentioned in the writ petition by the petitioners have become infructuous. However, he has submitted that the petitioners are praying for allowing the Prayer "C" of the writ petition for a direction to the respondent authority to recognize the Diploma in Medical Laboratory Technology obtained from the Indian Institute of Paramedical Technology, Kohima by the petitioners for any future participation in any selection process to the post of Laboratory Technician.

10. The learned counsel for the petitioners submits that the petitioners were not at fault in failure on the part of the authorities of the Indian Institute of Paramedical Technology, Kohima, in getting affiliation from Paramedical Council of India. He also submits that in view of the provisional authorization granted by the Paramedical Council of India to the Indian Institute of Paramedical Technology for six years in the year 2012 the petitioners who had completed their Diploma within these six years i.e., from the year 2012 to 2018 should be regarded as a Diploma obtained from an institution recognized by Paramedical Council of India. He further submits that the petitioners who took admission in the said

institute and pursued their Diploma in good faith should not be made scapegoat of administrative lapses on the part of the authorities concerned.

11. In support of his submission, the learned counsel for the petitioners has cited a ruling of a Co-ordinate Bench of this Court in the case of "***Biren Saikia -Vs- The State of Assam and Ors.***" [WP(C) No. 3166/2021, Judgment and Order dated 05.12.2023] wherein it was observed that even if an application by institute seeking recognition is refused by the authority granting approval, if the course has already been offered for that year or session and it continued till end of the session, it is not to be understood that the course stand discontinued upon recognition being refused and the degree obtained by undertaking such course in that given year by any person would be entitled to a degree or certificate.

12. The learned counsel for the petitioners has submitted that the petitioner Nos. 7, 8, 9 and 13 had obtained their Diploma in Medical Laboratory Technology on 24.09.2012 when there was a provisional authorization of the aforesaid institute granted by the Paramedical Council of India, hence, at least in respect of the aforesaid 4 numbers of petitioners, the Prayer "C" of the writ petition may be allowed.

13. On the other hand, Mr. N. Angami, learned Senior Government Advocate has opposed the prayer of the petitioners on the ground that the recruitment process initiated on the basis of the Advertisement No. DHFW-5/TRG/COVID-19/LT/2019-2020/5027-30 for the post of 18 numbers of Laboratory Technicians has already been concluded and, therefore, the Prayer "A" and Prayer "B" of the writ petition have already become infructuous.

14. As regards Prayer "C" of the writ petition is concerned, the learned Senior Government Advocate has submitted that the "No Objection Certificate" issued by the Government was only for a limited purpose of facilitating setting up of the Indian Institute of Paramedical Technology, Kohima. However, it was the responsibility of the said institution to obtain the necessary approval/affiliation from the concerned regulatory bodies, in the instant case, from the All India Paramedical Council.

15. The learned Senior Government Advocate submits that issuance of "No Objection Certificate" for setting up of the aforesaid institute should not be interpreted as recognition of courses offered by the said institute as said recognition can only be given by the regulatory bodies like Paramedical Council of India. He submits that the authorization letter dated 31.07.2012 issued by the Paramedical Council of India to the Indian Institute of Paramedical Technology, Kohima, Nagaland was not an affiliation of the said institute by the Paramedical Council of India as mentioned in the authorization letter itself and it was subject to annual review and renewal as well as inspection by the Council Inspection Committee. However, in the instant case, apart from provisional authorization letter there is nothing on record to show that the Indian Institute of Paramedical Technology, Kohima, is recognized Institute of Paramedical Council of India.

16. The learned Senior Government Advocate has submitted that the practice of admitting student in unauthorized educational/technical institution and then seeking permission for affiliation has been deprecated by the Apex Court in many of its rulings. He submits that when the Apex

Governing Body i.e., the Paramedical Council of India has not accorded affiliation or recognition to the Diploma course in Medical Laboratory Technology imparted by the Indian Institute of Paramedical Technology, Kohima, it would be contrary to law to allow the petitioners to participate in any future selection process on the basis of such unrecognized Diploma in Medical Laboratory Technology. In support of his submission, he has cited a ruling of the Apex Court in the case of the "***State of Tamil Nadu and Others -Vs- St. Joseph Teachers Training Institute and Anr.***" reported in "***(1991) 3 SCC 87***".

17. Ms. Lhousino, learned counsel for the respondent No. 6 has submitted that the petitioners were the *bona fide* students of the Indian Institute of Paramedical Technology, Kohima, and the said institute took steps for obtaining affiliation and recognition of the courses, including the Diploma course in Medical Laboratory Technology. However, in the midst of the said process, the institution was closed and the affiliation could not be obtained. It is also submitted that since the Paramedical Council of India had granted provisional authorization to the aforesaid institute for a period of 6 years, hence, the Diploma obtained by the petitioners from the aforesaid institute should be recognized for the purpose of enabling them to participate in any future recruitment process to the post of any Laboratory Technician.

18. I have considered the submissions made by the learned counsel for both the sides as well as gone through the materials available on record including the averments made in the writ petition, documents annexed thereto, affidavit-in-opposition filed by the respondents and affidavit-in-reply filed by the petitioners.

19. On perusal of the writ petition, it appears that three prayers were made by the petitioners in the instant writ petition, which are as follows:-

A. To quash and set aside the reject list issued by respondent No. 4 in respect of the petitioners and/or;

B. To direct the respondents to allow the petitioners to participate in the selection process conducted in pursuant to Advertisement No. DHFW-5/TRG/COVID-19/LT/2019-20/5027-30 dated 16.07.2020 and/or;

C. To direct the respondents to recognize/accept the petitioners course of Diploma in Medical Laboratory Technology obtained from Indian Institute of Paramedical Technology, Kohima, Nagaland, for any future participation in selection process to the post of Laboratory Technician.

20. There is no dispute at the bar that the selection process initiated on the basis of the advertisement mentioned herein above has already been concluded and, therefore, the Prayer "A" and Prayer "B" of the writ petition have become infructuous.

21. As regards to Prayer "C" of the writ petition is concerned, the Apex Court in a catena of decisions viz. (i) "***Maa Vaishno Devi Mahila Mahavidyalaya -Vs- State Of U.P. & Ors***" reported in "***(2013) 2 SCC 617***" (ii) "***Adarsh Shiksha Mahavidyalaya & Ors -Vs- Subhash Rahangdale & Ors***" reported in "***(2012) 2 SCC 425***" (iii) "***National Council For Teacher Edn. & Anr -Vs- Venus Public Education Society & Ors***" reported in "***(2013) 1 SCC 223***" has laid down the proposition that even if a student acquires a

degree from an institute, which is not recognized under law, such a degree would be invalid degree and cannot be used for any further purpose.

22. In the instant case, it appears that though the Indian Institute of Paramedical Technology, Kohima, was granted provisional authorization by the Paramedical Council of India, same cannot be regarded as affiliation to it, as it was specifically mentioned in the provisional authorization letter issued to the Indian Institute of Paramedical Technology, Kohima that such provisional authorization may not be treated as an affiliation.

23. Moreover, as the Indian Institute of Paramedical Technology, Kohima had to be closed before getting recognition from the Paramedical Council of India of the courses imparted by it and it failed to fulfill the pre-requisites for grant of affiliation for the courses imparted by it, hence, the Diploma obtained by the petitioners from the aforesaid institute cannot be regarded as a Diploma recognized by the Paramedical Council of India.

24. It is not the case of the petitioners that the Indian Institute of Paramedical Technology, Kohima was unlawfully denied the recognition of the Diploma in Medical Laboratory Technology imparted by it, by the Paramedical Council of India, rather it was due to the lapses of the said institute that the recognition of the diploma courses imparted by it could not be obtained from the Apex Regulatory Body i.e., Paramedical Council of India.

25. In the instant case, though the Government of Nagaland issued "No Objection Certificate" to the said institute, same was only for the purpose of facilitating establishment of the institute and the obligation to

obtain approval and recognition of the courses offered by the institute was on the said institute from the appropriate regulatory bodies. As the affiliation and recognition of courses offered by the Indian Institute of Paramedical Technology, Kohima, could not be obtained from the Apex Regulatory Body i.e., Paramedical Council of India, this Court cannot grant recognition to said diploma courses obtained by the petitioners merely on humanitarian grounds as it would be contrary to law.

26. Moreover, it also appears that the Government of Nagaland had constituted an inspection committee comprising of the Additional Director, Health and Family Welfare; the Medical Superintendent District Hospital, Dimapur; the Principal Paramedical Training Institute, Kohima; the Pathologist and Medical Officers In-charge of the Blood Bank, District Hospital, Dimapur; the Vice President Paramedical Institute, Kohima and the Pathologist Naga Hospital Authority to inspect the said institute in the month of January, 2014 and in the inspection report submitted by the said committee to the Government, it was observed that the institute lack proper "No Objection Certificate" from competent regulatory body, sufficient land and infrastructure including administrative block, academic classrooms, library, laboratory, conference halls, computer and computer rooms, basic environment sanitation, safe drinking water, proper power supply, proper hygienic toilets, minimum basic facility for physically challenged people, qualified faculty members, and qualified examiners for conducting examinations.

27. It is for the regulatory authority like Paramedical Council of India to decide the question of grant or refusal to recognize the Diploma in Medical Laboratory Technology offered by any institution upon fulfilling of

several criteria. In the instant case, no fault has been attributed to the Paramedical Council of India for not recognizing the Diploma course imparted by the Indian Institute of Paramedical Technology, Kohima.

28. Under the above circumstances, when the concerned regulatory body i.e., Paramedical Council of India has not given recognition to the diploma in Medical Laboratory Technology obtained by the petitioners from the Indian Institute of Paramedical Technology, Kohima, there is no justification for this Court to grant recognition to such a Diploma mainly on humanitarian ground.

29. Issuing any direction to recognize the Diploma in Medical Laboratory Technology obtained by the petitioners for any future selection process for the post of Laboratory Technician in absence of recognition of such diploma by the concerned regulatory bodies i.e., Paramedical Council of India and without there being any material to show that the said institute had fulfilled all the criteria requisite for getting such recognition would be contrary to law and, therefore, the Prayer "C" of the writ petition may not be granted.

30. For the aforesaid reasons, this writ petition is found devoid of merit.

31. This writ petition is accordingly dismissed.

JUDGE

Comparing Assistant