

GAHC010125302022



2026:GAU-AS:5227

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

Case No. : WP(C)/4400/2022

NIKUNJA SAHARIA AND 13 ORS
S/O-KULEN SAHARIA,VILL-BAJRAJHAR(BHELAPARA)P.O-ROWTA
CHARIALI,DIST-UDALGURI,BTC,ASSAM,PIN-784508

2: AMRIT BHARALI
S/O- LATE KHAGEN BHARALI
VILL-PALAHGURI
P.O-KILLING VALLEY
DIST-MORIGAON
PIN-782413

3: NARAYAN KUMAR NATH
S/O- LATE JOYRAM NATH.
VILL-MAHTALI
P.O-ANDHERIGHAT
DIST-DARRANG
PIN-784148

4: SHAJAHAN BHUYAN
S/O-SATTAR ALI BHUYAN
VILL-PADMAPARA
P.O-CHENGA
DIST-BARPETA
PIN-781305

5: PRABIN CHANDRA SARMAH
S/O- LATE SABHARAM SARMA
VILL-DAHI GANAKPARA

P.O-DIGHIRPAR
DIST-DARRANG
PIN-784144

6: APARNA BARUAH

W/O- DIGANTA SAIKIA
VILL-SANTIPUR

P.O-PHULBARI BOKANADI

DIST-LAKHIMPUR

7: NOOR UDDIN
S/O-HAZI OMAR ALI SHEIKH

VILL-ALAMGANJ
P.O-ALAMGANJ

DIST-DHUBRI
PIN-783339

8: MRS QUEEN MONI LAHAN
D/O- LATE RUPESWAR LAHAN.
VILL-PUTAPUKHURI GOHAIN GAON
P.O-LILABARI
DIST-LAKHIMPUR
PIN-787051

9: KALYANI DAS
C/O- CHANDAN KUMAR DAS
IIT GUWAHATI
NORTH GUWAHATI-781039
DIST- KAMRUP

10: RAJU BHUYAN
VILL-KADAMIAL
P.O-NORAGAON

DIST-LAKHIMPUR

11: KHAGEN SAHARIAH
S/O-JINA RAM SAHARIAH

VILL-BOR ATHIABARI

P.O-BOR DOULGURI

P.S-SIPAJHAR
DIST-DARRANG
PIN-784145

12: ROWSHANARA KHANAM
W/O-SHJAHAN BHUYAN

VILLPADMAPARA

P.O-JATRADIA
DIST-BARPETA
PIN-781305

13: SHERENA BEGUM
D/O-LATE OSMAN GONI AHMED
VILL-KUKARPAR
P.O-KHONGRA
DIST-BARPETA
PIN-781305

14: SHIV CHETRY
S/O-SHER CHETRY
PEOLI PHUKAN ROAD NAGAON
P.O-ITACHALI
DIST- NAGAON
PIN-78200

VERSUS

THE STATE OF ASSAM AND 10 ORS
REPRESENTED BY ITS COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT,
DISPUR-06

2:THE DIRECTOR OF EDUCATION
(SECONDARY)
DEPARTMENT
KAHILIPARA
GUWAHATI-19

3:THE NATIONAL COUNCIL FOR TEACHER EDUCATION
REPRESENTED BY THE CHAIRPERSON
HANS BHAWAN
WING-II
1 BAHADUR SHAH JAFAR MARG
NEW DELHI-110002

4:THE NATIONAL COUNCIL FOR TEACHER EDUCATION
EASTERN REGIONAL COMMITTEE
REPRESENTED BY THE CHAIRPERSON
BHUBANESHWAR REGIONAL DIRECTOR

15 NEEL KANTH NAGAR
NAYAPALI BHUBANESWAR-750102

5:THE INSPECTOR OF SCHOOLS
UDALGURI
DISTRICT- UDALGURI
ASSAM

6:THE INSPECTOR OF SCHOOLS
MORIGAON
DIST- MORIGAON
ASSAM

7:THE INSPECTOR OF SCHOOLS
LAKHIMPUR
DISTRICT- LAKHIMPUR
ASSAM

8:THE INSPECTOR OF SCHOOLS
DARRANG
DIST-DARRANG
ASSAM

9:THE INSPECTOR OF SCHOOLS
BARPETA
DIST-BARPETA
ASSAM

10:THE INSPECTOR OF SCHOOLS
DHUBRI
DIST-DHEMAJI
ASSAM

11:THE INSPECTOR OF SCHOOLS
KAMRUP (R)
DIST- KAMRUP
ASSA

Advocate for the Petitioner : MR B P BORAH, MISS. J GOGOI,MR R S RONGHANG,MR P J DUTTA,MR B P BORAH

Advocate for the Respondent : SC, SEC. EDU., SC, N C T E

Linked Case : WP(C)/4460/2022

NILOMANI BORAH AND 17 ORS
S/O - LT. TILOCK CH. BORAH
VILL -NONI PANI GAON
P.O - NONI
P.S - NAGAON
DIST - NAGAON (ASSAM)
PIN - 782101

2: HEDAYAT ULLAH
S/O - AYUB ALI
VILL -BHEHBARI
P.O - GURMOW
P.S - RANGIA
DIST - KAMRUP (ASSAM)
PIN - 781366

3: MOZNUR RAHMAN
S/O NUR HUSSAIN MUNSHI
VILL -ISLAMPUR
P.O -JOGI GHOPA
P.S -JOGI GHOPA
DIST -BONAGAIGAON
PIN -783382

4: ISMAIL HUSSAIN AZAD
S/O - ABDUL RASHID
VILL - CHALANTAPARA PT-LL
P.O -CHALANTAPARA
P.S -JOGIGHOPA
DIST -BONGAIGAON
PIN -783388

5: KHABIRUDDIN AHMED
S/O -LT. ALIMUDDIN
VILL NO.-1 KAPLABARI
P.O KAPLABARI
P.S MUKALMUA
DIST NALBARI (ASSAM)
PIN 781138

6: HEMANTA SAIKIA
S/O -DHANIRAM SAIKIA
VILL - MADHABPUR
P.O -MADHABPUR
P.S -NARAYANPUR
DIST - LAKHIMPUR(ASSAM)

PIN - 784164

7: JAYANTA BORAH
S/O - LT. MOHESWAR BORAH
VILL - NO.2 KUWADANGA
P.O - KUWADANGA
P.S - NORTH LAKHIMPUR
DIST - LAKHIMPUR
PIN - 787031

8: MONOMATI BARAH
S/O -LT. BISHNURAM BARAH
VILL - NO. 2 KUWADANGA
P.O - KUWADANGA
P.S - NORTH LAKHIMPUR
DIST - LAKHIMPUR
PIN - 787023

9: LALON PATHORI
S/O - LT. BONSHIDHAR PATHORI
VILL - BONGALMORA NO.1
P.O - ISLAMGAON
P.S - BIHPURIA
DIST - LAKHIMPUR
PIN - 787054

10: BISWANATH DUTTA
S/O - LT. JIBAN CH. DUTTA
VILL - EAST LUMDING SAMAJBARI ROAD
P.O - LUMDING
P.S - LUMDING
DIST - HOJAI
PIN - 782447

11: JAHARUL ISLAM
S/O - ABDUL SATTAR
VILL - ERASUTI PATHER
P.O - THELAMARA
P.S - THELAMARA
DIST - SONITPUR
PIN - 784149

12: SORMAN ALI AHMED
S/O - MONTAZ ALI AHMED
VILL - BORKALIA PT. LL
P.O - BAUSHKATA
P.S - FAKIRGONJ
DIST - DHUBRI

PIN - 783127

13: BIPUL BORUAH
S/O - JUGEN BORUAH
VILL - KALITA GAON
P.O - BORDOLONI
P.S - DHEMAJI
DIST - GOGAMUKH
PIN - 787026

14: PARESH DUTTA
S/O - LT. BUDHESWAR DUTTA
VILL - UJANI JALBHARI
P.O - JALBHARI
P.S - DHAKUAKHANA
DIST - LAKHIMPUR
PIN - 787055

15: JAYDUL HOQUE
S/O - ABUBAKKAR SIDDIOUE
VILL - DHAKNABARI
P.O - KAYETHPARA
P.S - ABHAYAPURI
DIST - BONGAIGAON
PIN - 783389

16: RUNUMANI NATH
S/O - LT. BHUGESWAR NATH
VILL - HABI BARANGABARI
P.O - HABI BARANGABARI
P.S - MIKIRBHETA
DIST - MORIGAON (ASSAM)
PIN - 782106

17: MRIGENDRA NATH SARMA
S/O - NARENDRA NATH SARMA
VILL - BUDURKUCHI
P.O - BUDURKUCHI
P.S - NALBARI
DIST - NALBARI (ASSAM)
PIN - 781348

18: KUSHAL JYOTI CHAKRABORTY
S/O - LT. KETAKI RANJAN CHAKRABORTY
VILL - RAMKRISHNA SARANI
P.O - RANGIRKHARI
P.S - SILCHAR
DIST - CACHAR

VERSUS

THE STATE OF ASSAM AND 10 ORS
REPRESENTED BY ITS COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
EDUCATION (SECONDARY) DEPARTMENT
DISPUR-06

2:THE DIRECTOR OF EDUCATION
(SECONDARY)
DEPARTMENT
KAHILIPARA
GUWAHATI-19

3:THE NATIONAL COUNCIL FOR TEACHER EDUCATION
REPRESENTED BY THE CHAIRPERSON
HANS BHAWAN
WING-II
1 BAHADUR SHAH JAFAR MARG
NEW DELHI-110002

4:THE NATIONAL COUNCIL FOR TEACHER EDUCATION
EASTERN REGIONAL COMMITTEE
REPRESENTED BY THE CHAIRPERSON
BHUBANESHWAR REGIONAL DIRECTOR
15 NEEL KANTH NAGAR
NAYAPALI BHUBANESWAR-750102

5:THE INSPECTOR OF SCHOOLS
MORIGAON
DISTRICT- MORIGAON
ASSAM

6:THE INSPECTOR OF SCHOOLS
BARPETA
DIST BARPETA
ASSAM

7:THE INSPECTOR OF SCHOOLS
LAKHIMPUR
DISTRICT- LAKHIMPUR
ASSAM

8:THE INSPECTOR OF SCHOOLS
KAMRUP
DIST-KAMRUP
ASSAM

9:THE INSPECTOR OF SCHOOLS
DARRANG
DIST-KAMRUP
ASSAM

10:THE INSPECTOR OF SCHOOLS
DHEMAJI
DIST-KAMRUP
ASSAM

11:THE INSPECTOR OF SCHOOLS
UDALGURI
DIST-KAMRUP
ASSAM

Advocate for : MR B P BORAH
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 10 ORS

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER

20/03/2026

Heard Mr. B P Borah, learned counsel for the petitioners in the above noted two writ petitions. Also heard Ms. D Muchahary, learned Standing counsel, Secondary Education Department and Mr. I Alam, learned Standing counsel, National Council for Teachers Education, appearing for the respondents, in the above noted two writ petitions.

2. As the issues arising in the above noted two writ petitions is one and the same, with the consent of the learned counsels for the parties, the writ petitions were taken up for hearing analogously and are being disposed of by this common order.

WP(C) No. 4400/2022

3. The petitioners in the present writ petition have assailed orders dated 05.05.2022, by which, their claim for being provincialised in their respective services as Teachers came to be rejected.

4. The petitioners have also prayed for a direction upon the respondent authorities to upgrade their services from that of a Tutor to the post of Teacher, along with authorizing to them a scale of pay.

WP(C) No. 4460/2022

5. The petitioners by way of instituting the present writ petition, has prayed for a direction upon the respondent authorities to upgrade their services from the post of Tutor to that of Teacher and also to authorize to them their pay and allowances in the pay scale, as sanctioned for the post of Teacher of a Secondary School.

6. The petitioners have also assailed Clause-6 of their respective provincialisation orders.

7. The facts in brief for adjudication of the issues arising in the above noted writ petitions, are noticed, as follows:

WP(C) No. 4400/2022.

8. The petitioners in the present writ petition, were all appointed in their respective schools as Subject Teachers. The petitioners project that they fulfilled the eligibility criterias, as set out by the National Council for Teachers Education, vide the National Council for Teacher Education (Determination of Minimum

Qualifications for persons to be recruited as Education Teachers and Physical Education Teachers in Pre-primary, Primary, Upper Primary, Secondary, Senior Secondary or Inter-mediate Schools or Colleges) Regulations, 2014.

8.1. The petitioners were initially appointed in Venture Institutions. The cases of the Teachers of the Venture Institutions, wherein, the petitioners were serving, were taken up for consideration for provincialisation of their services under the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017 (hereinafter, referred to as the Act of 2017), as amended in 2018.

The petitioners were, however, regularized as Tutors, as they were found to have not acquired the requisite qualification for being provincialised in their respective services against the posts of Teacher.

The petitioners, being aggrieved, had approached this Court by way of instituting a writ petition, being WP(C) No. 6290/2021, with a prayer for provincialisation of their services against the posts of Teacher, along with authorization to them their pay and allowances in the scale of pay, as attached to the posts of Teacher of a Secondary School.

8.2 A Co-ordinate Bench of this Court, vide order dated 17.01.2022, noticing the provisions of the Act of 2017, disposed of the said writ petition, requiring the petitioners to file individual applications before the Director of Secondary Education, Assam, stating in detail the qualifications, they have acquired and also from which date, such qualifications have been acquired, by enclosing copies of the relevant testimonials, which may indicates such qualifications.

The Director of Secondary Education, Assam was directed to pass a

reasoned order, by taking note of the qualifications of the individual petitioners after examining as to whether it meets the requirement of the qualification of a Teacher and on which date, such qualifications were acquired. It was further provided that if the Director arrives at a conclusion that the petitioners have acquired the qualification on or prior to the date of their provincialisation, i.e., 04.02.2021, necessary orders be passed for payment of pay and allowances to the petitioners, w.e.f. 04.02.2021 and if on the contrary, the Director arrives at a conclusion that on the said date, the petitioners did not have the requisite qualification of a Teacher, necessary reasoned order be passed. It was further provided that in the event, the Director finds that any of the petitioners may have acquired the qualification, subsequent to 04.02.2021, the pay and allowances of a Teacher be authorized to such petitioners from the date of acquiring the necessary qualification.

8.3 The petitioners, thereafter, submitted their respective representations and the Director, on examination of the same in the light of the directions passed by the Co-ordinate Bench of this Court, proceeded vide orders dated 05.05.2022, to reject the claim made by the petitioners, finding that the petitioners had not fulfilled the requisite eligibility criteria for being appointed as a Post Graduate Teacher, which is having passed Post Graduate Examination with 50% marks in the relevant subject with B.T./B.Ed. from a recognized University. It was held that the petitioners did not have 50% marks in their Masters Degree and on the said count, the claim of the petitioners for being appointed as Teachers came to be rejected.

Being aggrieved, the petitioners have instituted the present writ petition.

9. The petitioners, like the petitioners in WP(C) No. 4400/2022, were initially appointed as Subject Teachers in their respective schools. At the time of the initial appointment of the petitioners, the schools, wherein, the petitioners were so appointed, were Venture Educational Institutions. The case of the petitioners, along with other eligible incumbents in their respective schools, was taken up for consideration under the provisions of the Act of 2017. The services of the petitioners were provincialized as Tutors and not as Teachers. Being aggrieved, the petitioners have instituted the present writ petition, praying for the reliefs, as noticed hereinabove.

10. Mr. B P Borah, learned counsel for the petitioners, by narrating the facts noticed hereinabove, has submitted that the petitioners had fulfilled the eligibility criterias, as set out in the Regulations of 2001. The learned counsel for the petitioners, by referring to the provisions of Section 6 of the Act of 2017, has submitted that the same mandates that for provincialization of a Teacher working in a Venture Educational Institution, such Teacher is mandated to fulfill the eligibility criteria, relating to educational and professional qualification, as laid down in the Acts, noticed therein. He submits that one of the Acts, noticed therein, is the National Council for Teachers Education Act and the Regulations, as framed there under. He also submits that the Teacher is also required to fulfill the eligibility criterias, as set out in the Assam Secondary Education (Provincialised) Service Rules, 2003.

10.1 Mr. B P Borah, learned counsel for the petitioners submits that the NCTE Regulations of 2014, as framed under the National Council for Teachers Education Act mandates that a Post Graduate Teacher in a Senior Secondary, Inter-mediate School is to acquire the Post Graduate Degree with at least 50%

marks (or its equivalent) from a recognized University, along with a degree in Bachelor Education from the National Council for Teachers Education recognized Institution. He further submits that the alternative qualification, as set out for a Post Graduate Teacher in the said NCTE Regulations of 2014 mandates that a Post Graduate Teacher with at least 45% marks from a recognized University, along with B.Ed. Degree from a National Council for Teachers Education recognized Institution acquired in accordance with the National Council for Teachers Education Regulations, 2002, notified on 13.11.2002 and the National Council for Teachers Education (Recognition Norms & Procedures) Regulations, 2007, notified on 10.12.2007.

10.2 It is submitted that the NCTE Regulations of 2014, having mandated that even a candidate with a Post Graduate Teacher with at least 45% marks, having a B.Ed. Degree acquired in terms of the Regulations of 2002 and Regulations of 2007, would be eligible for appointment as a Post Graduate Teacher in a Senior Secondary/Inter-mediate School, the petitioners having possessed more than 45% marks in their respective Master Degree courses and also having a B.Ed. Degree, the petitioners were eligible and entitled to have their services provincialized under the Act of 2007, against the post of Post Graduate Teacher and not as Tutor. Accordingly, he submits that the order dated 05.05.2022 assailed in WP(C) No. 4400/2022, would mandate an interference by this Court, with a further direction to the respondent authorities to provincialise the services of the petitioners as Post Graduate Teachers with retrospective effect, by also authorizing to them the scale of pay, as prescribed in this connection.

11. Per contra, Ms. D Mushahary, learned Standing counsel, Secondary Education Department submits that Section 6 of the Act of 2017 mandates that

the services of a Teacher in a Venture Educational Institution shall be mandated to be provincialized as a Teacher, subject to the fulfillment of the eligibility criterias, relating to educational and professional qualifications, as set out amongst others, in the Assam Secondary Education (Provincialised) Service Rules, 2003. She submits that in terms of the provisions of Rules of 2003, for appointment as a Post Graduate Teacher, it is mandated that the intending candidate must have acquired his/her Master Degree with 50% marks in the relevant subject along with B.T./B.Ed. Degree from a recognized University. She submits that although, an alternative qualification was set out in the NCTE Regulations of 2014, it is a settled position of law that the State authorities are empowered to prescribe a qualification other than the qualification, as set out by the NCTE authority, provided that the qualification as set out by the State authorities, is not lower than that so prescribed by the NCTE in its Regulations. She submits that the requirement of having acquired the Master Degree with 50% marks being a condition of recruitment as set out in the provisions of the Rules of 2003, the petitioners admittedly not having cleared their respective Master Degree courses with 50% marks, the petitioners were not entitled to have their services provincialized as Teachers and accordingly, the petitioners were provincialized as Tutors. Accordingly, she submits that the claim made by the petitioners for upgradation of their respective services to that of Teacher from Tutors would not mandate an acceptance by this Court.

12. I have heard the learned counsels for the parties and also perused the materials available on records.

13. Section 6 of the said Act, 2017, being relevant to the issue arising in the present writ petitions, is extracted hereinbelow:

“6. Educational and Professional qualification of teachers:- 1) *The services of teachers in a Venture Educational Institution from the Primary level up to the Degree Level, shall be considered for provincialisation in the post of teachers or relevant teaching faculty in appropriate nomenclature, as the case may be, subject to fulfillment of the eligibility criteria relating to educational and professional qualifications as laid down under the following Acts, Rules and Regulations:-*

(a) The Right of Children to Free and Compulsory Education Act, 2009 (Central Act nO. 35 of 2009) and its Rules;

(b) The National Council for Teachers Education Act, 1993 (Central Act No. 73 of 1993) and its Regulations in force at the time of provincialisation of services;

(c) The Assam Secondary Education (Provincialised) Service Rules, 2003 as amended in 2012

(d) The University Grants Commission Act, 1956 (Central Act No. 3 of 1956) and University Grants Commission Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010, framed thereunder, as the case may be.”

14. A perusal of the provisions of Section 6 of the Act of 2017, would reveal that a Teacher in a Venture Educational Institution for provincialization of their services as Teachers or as relevant Teaching faculty in appropriate nomenclature, as the case may be, must fulfill the eligibility criteria relating to educational and professional qualifications as laid down in the Acts as mentioned in Sub Section (1) of Section 6 of the Act of 2017.

15. Sub Section (2) of Section 6 of the Act of 2017, further mandates that the services of a teaching employee in a Venture Educational Institution shall be considered for provincialization as Teacher only if they have the requisite

academic and professional qualifications prescribed under the relevant Acts, Rules or Regulations as mandated in Sub Section (1) of Section 6 of the said Act, as applicable for the time being in force, otherwise, their services shall be provincialized as Tutor.

16. It is not in dispute that the petitioners in the above noted writ petitions do not have 50 % marks in their respective Masters Degree. The provisions of Section 6 of the Act of 2017, not being under challenge, this Court would be called upon to examine the claim made by the petitioners strictly in accordance with the provisions of Section 6 of the Act of 2017.

17. The provisions of Section 6 of the Act of 2017, mandates that a Teacher in a Venture Educational Institution shall be considered for provincialization as a Teacher, in the event, amongst others, such Teachers fulfills the eligibility criterias set out for each category of post as set out in the provisions of the Assam Secondary Education (Provincialised) Service Rules, 2003.

18. Schedule-II appended to the Rules of 2003, mandates that for recruitment as a Post Graduate Teacher, a candidate must have a Master Degree with 50% marks in the relevant subject along with B.T./B.Ed. Degree from a recognized University.

19. The NCTE Regulations of 2014, has laid down the qualification for recruitment as a Post Graduate Teacher in a Senior Secondary/Inter-mediate School (for classes-XI & XII). The eligibility criteria for recruitment as a Post Graduate Teacher as set out in the first Schedule to the NCTE Regulations of 2014, being relevant, the same are extracted hereinbelow:

“(a) Post Graduate with at least 50% marks (or its equivalent) from recognized

University and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognized institution.

Or

(b) Post Graduate with at least 45% marks (or its equivalent) from recognized University and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognized institution (in accordance with the National Council for Teacher Education (Form of application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new course or training) Regulations, 2002 notified on 13.11.2002 and National Council for Teacher Education Recognition Norms and Procedure) Regulations, 2007 notified on 10.12.2007.

Or

(c) Post Graduate with at least 50% marks (or its equivalent) from recognized University and B.A.Ed/B.Sc.Ed. from any NCTE recognized institution."

20. On a perusal of the eligibility criteria as set out for recruitment as a Post Graduate Teacher in a Secondary School under the provisions of the Regulations of 2014, it is seen that the said Regulation mandates that the candidate must have a Post Graduate Degree with at least 50% marks or its equivalent from a recognized University along with a Bachelor of Education Degree from a National Council for Teachers Education recognized Institution. However, an alternative qualification is prescribed, which mandates possession of a Post Graduate Degree with 45% marks from a recognized University and a Bachelor of Education Degree acquired from a NCTE recognized Institution in accordance with the National Council for Teachers Education (Form of Application for Recognition, the Time Limit of Submission of Application, Determination of Norms and Standard for Recognition of Teachers Education Programs and Permission to Start New Course or Training) Regulation, 2002, notified on 13.11.2002 and National Council for Teachers Education (Recognition Norms & Procedure) Regulations, 2007, notified on 10.12.2017.

21. Although, an alternative qualification is prescribed in relation to acquiring of a B.Ed. Degree under the provisions of the NCTE Regulations of 2002 and/or the NCTE Regulations of 2007, the respondents in the present writ petitions have not demonstrated that they would be covered by the alternative qualifications as set out in the NCTE Regulations. It is further a settled position of law that while the norms set out by the NCTE, qualifications must mandate adherence by the State respondents, the same is also qualified with the stipulation that the State respondents are at liberty to prescribe an enhanced qualification than that as mandated by the NCTE in its Regulations for recruitment of Teachers in its Institutions.

22. Accordingly, the prescription of eligibility criterias under the Rules of 2003 by the State respondents for recruitment as Post Graduate Teachers in provincialized Higher Secondary Schools in the State, in the considered view of this Court, cannot be held to have been so prescribed in violation of the prescriptions made in the NCTE Regulations. Accordingly, the insistence of the State respondents that for provincialization of services of a Teacher in a Venture Educational Institution as a Post Graduate Teacher, must acquire the requisite eligibility criteria as set out in Schedule-II of the Rules of 2003 for recruitment to the post of Post Graduate Teacher, cannot be held to be erroneous.

23. The petitioners have further raised an argument that their services having been provincialized in the year 2021, the provisions of the said Rules of 2003 being repealed by the provisions of the Assam Secondary Education (Provincialised Schools) Service Rules 2018 and accordingly, the reference in the Act of 2017 to the Rules of 2003 would not mandate compliance.

24. This Court has perused the provisions of the Rules of 2018. The

provisions of Rules of 2018 in Schedule-III, mandates similar eligibility criteria as mandated for recruitment against the posts of Post Graduate Teacher in the Rules of 2003. Accordingly, even if the Rules of 2018, are to be applied in the matter, the petitioners are found to have not satisfied to the eligibility criterias as set out, therein.

25. In view of the said conclusions drawn by this Court, this Court is of the considered view that on the date when the services of the petitioners were provincialized, they did not possess the requisite eligibility criteria for having their respective services provincialized as Post Graduate Teachers and accordingly, the services of the petitioners being provincialized as a Tutor, this Court is of the considered view that no error had occasioned, thereon. Accordingly, the order dated 05.05.2022 passed by Director in respect of the petitioners in WP(C) No. 4400/2022 would not mandate any interference.

26. Having drawn the said conclusions, this Court would now examine the prayer of the petitioners for a direction for upgradation of their respective services from Tutors to that of Teachers.

27. This Court, on a perusal of the materials brought on record, does not find that the petitioners have projected that they have after the provincialization of their services as Tutors acquired the requisite eligibility criterias, as set out in the provisions of Rule of 2003 and/or the Rules of 2018 for recruitment to the posts of Post Graduate Teacher. Accordingly, the said prayer of the petitioners for upgradation to their services from Tutors to that of Teachers would not also mandate acceptance.

28. For the reasons assigned hereinabove, the above noted writ petitions,

being WP(C) No. 4400/2022 and WP(C) No. 4460/2022 are held to be devoid of any merit and accordingly, the same stands dismissed. However, there would be no order as to costs.

JUDGE

Comparing Assistant