Heard Mr. R Karim, learned counsel for the petitioner, Mr. SK Ghosh, learned Standing Counsel, Secondary Education Department, Government of Assam appearing for respondent Nos. 1 to 3 and Ms. D Borgohain, learned counsel appearing for respondent No. 4.

By filing this petition under Article 226 of the Constitution of India, petition er seeks quashing of order dated 17.12.2015 passed by the Director of Secondary Education, Assam allowing respondent No. 4 to be the In-Charge Principal of Lakw a Tantia H.S. School in the district of Sivasagar.

Petitioner is an Assistant teacher and respondent No. 4 is a subject teacher of Lakwa Tantia H.S. School (School). According to the petitioner, he holds M.A. and B.Ed degrees whereas respondent No. 4 holds M.A. degree only; she does not possess B.Ed degree.

Impugned order dated 17.12.2015 reads as under:-

Until further order, Smti. Champawati Chetia, Subject Teacher of Lakwa Tantia H .S. School, District Sivasagar is hereby allowed to hold the charge of Principal in-charge of the same School along-with financial power to draw and disburse the salary etc. of the staff of the School in addition to her normal duties as Subject Teacher under F.R. 49(C) vice Sri Atul Rajkonwar, Principal i/c, retired on 30.11.2015.

This is a purely temporary arrangement.

As can be seen from the impugned order the necessity for allowing respondent No. 4 to be the In-Charge Principal of the School arose following superannuation of the then incumbent.

Assam Secondary Education (Provincialised) Service Rules, 2003, as amended, deal s with recruitment and conditions of service of persons appointed to the Assam S econdary Education (Provincialised) Service. Such service includes the post of P rincipal in Class II (senior). Rules 12 deals with recruitment to the post of Pr incipal in Higher Secondary Schools and Higher Secondary and Multipurpose School s and qualifications required thereof. As per Rule 12 (2) (ii), the minimum qual ification required for appointment to the post of Principal in Higher Secondary School or Higher Secondary and Multipurpose School is that the candidate must be M.A./M.Sc/M.Com with B.T/B.Ed degree from any recognized University having unif ormly good academic career.

This Court has held in a number of decisions that even in case of temporary or I n-Charge appointment, the incumbent must possess the requisite qualification to hold the post. A person not having the prescribed eligibility qualification cann ot occupy the office of Principal even on temporary or on in charge basis, mores o when past experiences have shown that such arrangement continues for a fairly long time.

Both Mr. SK Ghosh, learned Standing Counsel, Secondary Education Department and Ms. D Borgohain, learned counsel appearing for respondent No. 4 while admitting that respondent No. 4 does not possess the B.Ed degree, however, questions both the Post Graduate and B.Ed degrees obtained by the petitioner by contending that such degrees are not recognized and therefore he cannot claim the post of Principal on the basis of such qualifications.

Issue before the Court is legality and validity of order dated 17.12.2015 whereby respondent No. 4 was allowed to be the In-Charge Principal of the School. Validity of the degrees possessed by the petitioner is not the subject matter of the present writ petition and therefore no deliberation on that aspect would be called for. In view of the frank admission by learned Standing Counsel as well as learned counsel appearing for respondent No. 4 it is therefore apparent that respondent No. 4 does not possess the minimum requisite qualification necessary to hold the post of Principal of a higher secondary school.

At this stage, Ms. D Borgohain, learned counsel appearing for respondent No. 4 s ubmits that none of the teachers in the School possesses the requisite qualifica

tion. I am afraid that is a matter which will have to be attended to by the depa rtmental authorities. It is not for the Court to suggest as to how such situatio n can be overcome. Learned Standing Counsel, Secondary Education Department has also not apprised the Court as to why regular selection to the post of Principal has not been undertaken till now despite the vacancy occurring on 30.11.2015. For all the aforesaid reasons, impugned order dated 17.12.2015 cannot be sustain ed and is accordingly set aside and quashed. Writ petition is allowed to the above extent. No cost(s).