

GAHC010011072024



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

Case No. : WP(C)/332/2024

DIPANKA BORAH
S/O- PRABHAT BORAH,
R/O- TITABAR,
P.O.- TITABAR, P.S.- TITABAR,
DIST.- JORHAT, PIN- 785630.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
EDUCATION ELEMENTARY DEPARTMENT,
DISPUR, GUWAHATI, PIN- 781006.

2:DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE UNION OF INDIA
REPRESENTED BY THE JOINT SECRETARY TO THE GOVERNMENT OF
INDIA

DEPARTMENT OF SCHOOL EDUCATION AND LITERACY

MINISTRY OF HUMAN RESOURCES DEVELOPMENT

SHASTRI BHAWAN
NEW DELHI

PIN- 110001.

4:THE NATIONAL COUNCIL OF TEACHER EDUCATION
(A STATUTORY BODY OF GOVERNMENT OF INDIA)

HAVING ITS OFFICE AT HANZ BHAWAN WING II

BAHADUR SHAH ZAFAR MARG
NEW DELHI

PIN- 110002

Advocate for the Petitioner : MR A A DEWAN

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

JUDGMENT & ORDER (ORAL)

Date : 01-02-2024

Heard Mr. A. Dewan, learned counsel for the petitioner. Also heard D. Saikia, learned Advocate General, Assam assisted by Mr. S. M. T. Chistie, learned standing counsel appearing for the authorities of the Elementary Education Department.

2. In view of the nature of the order being passed, notice upon respondents no. 3 & 4 is not deemed necessary.

3. The petitioner by way of instituting the present proceeding has presented a challenge to an advertisement dated 26.12.2023, issued by the Director of Elementary Education, Assam inviting online applications for filling up vacancies of Assistant Teachers of LP Schools under the Directorate of Elementary Education, Assam, on the ground that the educational

qualification as prescribed therein is not in accordance with the prescriptions made for the posts involved by the National Counsel for Teacher Education (NCTE).

The educational qualification as spelt out in the advertisement is extracted herein below:-

Sl. No.	Category of post	Essential Qualification & experience	Marking/Weightage
1.	Assistant Teacher for Lower Primary School	Higher Secondary/Senior Secondary (or its equivalent) with at least 50% marks	5% of marks secured in Higher Secondary/Senior Secondary or equivalent Examinations
		And 2-year Diploma in Elementary Education (by whatever name known)	5% of marks secured in Diploma in Elementary Education or Bachelor of Elementary Education examination or Diploma in Education (Special Education)
		And Assam TET or Central TET for Lower Primary	85% of marks secured in Teachers Eligibility Test (TET) for Lower Primary Schools.
		(Non-essential) 1.NCC Certificate-5 marks for "C" Certificate and 3 marks for "B" Certificate	5 marks (Maximum) Even if the candidate possesses all the three qualification/achievements

		<p>Or</p> <p>2. 5 marks for participation/achievement in recognized sports at National Level or beyond representing State or Nation.</p> <p>Or</p> <p>3. 5 marks for participation/achievement in recognized Fine Arts and Cultural Activities representing State at National Level or beyond representing State or Nation (organized by recognized institutions)</p>	
		Maximum Total Marks	100

4. The NCTE vide its notification dated 29.07.2011, has laid down the minimum qualifications required to be possessed by a person to be eligible for appointment as a teacher.

The qualification as prescribed in the said notification dated 29.07.2011, for recruitment of teachers for classes I-V being relevant is extracted herein below:-

“1. Minimum Qualifications:-

(i) Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations, 2002.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

OR

Graduation and two year Diploma in Elementary Education (by whatever name known)"

5. On a comparison of the qualifications as prescribed by the NCTE vide its notification dated 29.07.2011 and the qualifications as spelt out in the said advertisement dated 26.12.2023, it is seen that in the advertisement, the alternative qualification of "*Graduation and two year Diploma in Elementary Education (by whatever name known)*" was not incorporated. The petitioner, who satisfies the said alternative qualification had instituted the present

proceedings in view of the fact that the same not having been incorporated in the advertisement dated 26.12.2023, he is not in a position to have his case considered against the posts so advertised.

6. This Court vide order dated 29.01.2024, had required the learned standing counsel Elementary Education Department to receive his instructions in the matter and had directed for listing of the matter today.

7. Today, the learned AG, Assam has placed on record an instruction issued by the Director, Elementary Education, Assam through which it was informed that the Government was aware of the said discrepancies and accordingly had already taken steps for modification of the qualification as spelt out in the advertisement dated 26.12.2023 and accordingly, a corrigendum would be issued incorporating the qualification "*Graduation and two year Diploma in Elementary Education (by whatever name known)*" in the said advertisement. It has also been further stated by the learned AG that in view of the requirement of issuing a corrigendum in the matter, the last date of submission of online application for the posts of Assistant Teachers in LP Schools in the State, advertised vide the advertisement dated 26.12.2023, would now be extended from 10:00 PM of 02.02.2024 till 10:00 PM of 12.02.2024.

8. The grievance as raised by the petitioner in the present proceedings, being limited to the non-incorporation of the qualification "*Graduation and two year Diploma in Elementary Education (by whatever name known)*" in the said

advertisement dated 26.12.2023 and the Government having now approved for the modification of the qualification as spelt out in the said advertisement dated 26.12.2023 and a corrigendum being issued for extension of the last date of submission of the applications, grievance as raised by the petitioner in the present proceeding stands redressed.

9. The petitioner would now be at liberty to submit his application in pursuance to the advertisement dated 26.12.2023 in pursuance to the issuance of the corrigendum as indicated herein above within the extended last date for submission of applications.

10. With the above observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant