

GAHC010121592025



2025:GAU-AS:13434

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

Case No. : Review.Pet./90/2025

MINA HAZARIKA AND ANR
W/O SHRI CHANDRA KONWAR, R/O VILL. NABAKATHARBARI, P.O.
DHAKUAKHANA, DIST. LAKHIMPUR, ASSAM, PIN 787055

2: BINA CHETRY

W/O SHRI SUBHAS CHETRY
R/O VILL. BORPAK NEPALI GAON
P.O. MACHKHOWA
DIST. DHEMAJI
ASSAM PIN 78705

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, EDUCATION DEPTT., DISPUR, GUWAHATI 781006

2:THE DIRECTOR

ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 19

3:THE DIST. ELEMENTARY EDUCATION OFFICER

DHEMAJI
ASSAM.

4:THE DEPUTY INSPECTOR OF SCHOOLS

DHEMAJI
ASSAM.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

DHEMAJI
DIST. DHEMAJI
ASSAM.

6:THE HEAD MASTER JIADHAL ME SCHOOL

DIST. DHEMAJI
ASSAM.

7:THE HEAD MASTER PURBUTTAR MACHKHOWA ME SCHOOL

DIST. DHEMAJI
ASSAM

Advocate for the Petitioner : MS. G GOSWAMI, MRS L BORUAH,MR. B B BORAH,MS M BORAH

Advocate for the Respondent : SC, ELEM. EDU,

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 26.09.2025

1. Heard Ms. G Goswami, learned counsel for the petitioners. Also heard Mr. N.J Khataniar, learned standing counsel, Elementary Education Department for the respondent Nos. 1 to 5.
2. A batch of writ petitions was disposed of by a common judgment and order dated 09.05.2025, which includes the case of the present writ petitioners, i.e., WP(C) 7365/2023.
3. The present petitioners participated in a selection process for the appointment of Hindi teachers at the Upper Primary School in the district of Dhemaji, pursuant to an advertisement dated

22.11.2012. After due selection, they were issued appointment orders on 28.06.2013; however, upon their joining, an order dated 31.07.2013 was issued directing the petitioners not to attend their duties, as allegations had been received of a lack of the required qualification in Hindi.

4. Such an order was assailed before this Court in WP(C) No.7160/2013, which was disposed of by an order dated 01.06.2015, passed by the Coordinate Bench in WP(C) 7160/2013.

5. The Coordinate Bench concluded that the petitioners did not have the requisite qualification as per the advertisement dated 22.11.2012, and the conditions stipulated in the said advertisement not having been challenged, the petitioners cannot be considered for selection to the post of Hindi teachers, and their selection is in violation of the conditions stipulated in the advertisement, which does not cure the defect.

6. However, after such a conclusion, the matter was relegated to the authorities to consider, on the ground that the impugned orders dated 31.07.2013 were passed in violation of the principles of natural justice and, accordingly, an opportunity of hearing was directed to be given.

7. Alleging that though a hearing was completed on 06.12.2021, no decision was taken, the petitioners re-approached this court by filing WP(C) No.6225/2022.

8. During the pendency of WP(C) No. 6225/2022, an order was issued, pursuant to the hearing dated 06.12.2021, terminating the services of the petitioners.

9. Accordingly, the writ petition, being WP(C) No.7365/2023, was filed assailing the order of termination dated 14.03.2022, in which a common judgment and order was passed.

10. The case of all these petitioners was that they had the required qualification of Praveen from Rastrabasha Prachar Samiti and were eligible for appointment as Teachers in the Upper Primary School in the subject of Hindi.

11. It is an admitted position that both sets of writ petitioners, beyond qualifying Praveen from Rastrabhasha Prachar Samiti, had also obtained a Bachelor's degree in Arts and were selected pursuant to a selection process; however, the advertisement stipulated having a graduation degree with one of the subjects, Hindi"

12. It is also admitted that the appointment of the petitioners in WP(C) 7365/2023 was terminated for want of having a graduation in Hindi.

13. On the other hand, the writ petitioners in WP(C) No.3100/2022 & WP(C) No.1996/2024 approached this Court, assailing an advertisement process initiated for the appointment of Hindi Teachers in Upper Primary Schools, which stipulates a similar condition of having Hindi as a subject in graduation.

14. The case of all these petitioners was that they have the qualification of Praveen from Rastrabasha Prachar Samiti, and they claim to be eligible for appointment as Teachers in the Upper Primary School in the subject Hindi. However, their grievance is that such a qualification is not considered as eligibility, even though the same qualification is recognized for selection as a Teacher of Hindi in High

Schools in Assam.

15. Accordingly, at the request of all the contesting parties, all these writ petitions were heard together inasmuch as the issue before this court was whether, in graduation, having Hindi as a subject can be made an essential qualification for the appointment in question under the extent norms, i.e., NCTE notification dated 23.08.2010 and the Assam Elementary Education Provincialization Rules, 1977.

16. All these cases were taken up together, and this court, by the judgment and order under review, held that the petitioners are admittedly in possession of the essential qualification prescribed under the notification dated 23.08.2010 issued by NCTE. It was further concluded in the judgment that in terms of the NCTE notification, the petitioners have both the qualification, i.e., educational and professional qualification, as well as the academic qualification of TET, for being appointed as teachers in elementary schools in terms of the NCTE notification.

17. It was concluded that insistence of Hindi as a special subject in graduation in absence of any prescription by NCTE or in absence of any notification issued by the State in exercise of power under Rule-3(iii) of the Assam Elementary Education (Provincialisation) Rules, 1977, shall be violative of the petitioners' right under Article 14 and 16 of the Constitution of India.

18. After arriving at the aforesaid conclusion, this court opined that the employer shall have the right to add specific qualifications in conformity with the NCTE notification issued in this regard. However, in the absence of such a notification issued, the state cannot insist on

additional/separate qualifications beyond the scope of the NCTE notification and the Rules of 1977 prescribing qualifications.

19. As the Selection process had already concluded in WP(C) 3100/2022 & WP(C) No.1996/2024, this Court did not interfere with it. However, with regard to the petitioners' prayer in WP(C) 7365/2023, no direction was issued. Accordingly, the review petition is filed seeking review, and, alternatively, the IA is filed for correction of the order.

20. Mr. NJ Khataniar, learned standing counsel, Elementary Education Department, submits that pursuant to such determination, the State of Assam, in the name of the Governor, has issued a notification in exercise of power conferred under Rule 3(iii) of the Rules, 1977, prescribing, amongst others, having Hindi in graduation as one of the subject for appointment as Hindi teacher. However, admittedly, such a prescription is prospective in nature.

21. For completeness, the said Notification is reproduced below:

**GOVERNMENT OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
DISPUR: GUWAHATI**

**ORDERS BY THE GOVERNOR OF ASSAM
NOTIFICATION**

Dated Dispur, the 9 September, 2025.

No-E-688666/10: Whereas in the Upper Primary Schools in the State of Assam, the subjects of Languages, Social Science, Science - Mathematics, and Hindi are taught in the classes.

Whereas NCTE has prescribed, vide Notification-2010 as amended from

time to time, the academic level of qualification as Graduation viz.BA/B.Sc. with the professional qualifications of 2-Year Diploma in Elementary Education or B.Ed. and UP TET.

Whereas, the State Govt, based on the academic level of qualification as Graduation as per NCTE Guidelines, for the recruitment of Teaching Staff in Upper Primary level prescribes the following-

- a. For the subjects-Languages and Social Studies, altogether taken as common subjects, maintaining the academic level of qualification as Graduation as per NCTE Guidelines, prescribes the eligibility condition as Graduation having subjects in Arts, Science etc. streams along with prescribed professional qualifications and UP-TET.
- b. For the subjects-Mathematics and Science, maintaining the academic level of qualification as Graduation as per NCTE Guidelines, prescribes the eligibility condition as Graduation having subjects in Science stream along with prescribed professional qualifications and UP-TET.
- c. For the subject of Hindi, maintaining the academic level of qualification as Graduation as per NCTE Guidelines, prescribes the eligibility condition as Graduation having Hindi as a subject along with prescribed professional qualifications and UP-TET.

Therefore, in exercise of the powers conferred by Rule-3 (iii) of Assam Elementary Education (Provincialisation) Rules-1977 as amended, the State Government prescribes the following academic and professional qualifications for the following posts in Upper Primary Schools of Assam-

- I). **Assistant Teacher**-Graduation from UGC recognized university with 2-Years Diploma in Elementary Education or B.Ed. and UP TET.
- II) **Science Graduate Teacher**- B.Sc. degree from UGC recognized university with 2-Years Diploma in Elementary Education or B.Ed. and UP

TET.

**III) Hindi Teacher: Graduation from UGC UGC-recognised university having Hindi as one of the subjects with 2-Years Diploma in Elementary Education or B.Ed. and UP TET.
(Emphasis supplied).**

22. In the case of the review petitioners i.e. writ petitioners in WP(C) 7365/2013, what is seen is that in the order dated 01.06.2015, passed by a Coordinate Bench in WP(C) 7160/2013, wherein the order of dated 31.07.2013 was challenged, the Coordinate Bench concluded that the petitioners did not have the requisite qualification as per the advertisement dated 22.11.2012 and the conditions stipulated in the said advertisement not having been challenged, the petitioners cannot be considered for selection to the post of Hindi teachers and their selection is in violation of the conditions stipulated in the advertisement does not cure the defect. However, after such a conclusion, the matter was relegated to the authorities to consider, on the ground that the impugned orders dated 31.07.2013 were passed in violation of the principles of natural justice and, accordingly, an opportunity of hearing was directed to be given.

23. Thus, in the totality of the matter and in the considered opinion of this court, these two writ petitions could not have been taken together as requested by the learned counsel for the parties inasmuch as though the determination made in judgment and order dated 09.05.2025 might have some implications on the plea of the review petitioners, however, other issues as to the implications of the

conclusion made by the coordinate bench in WP(C) 7160/2013, remains. The same, in the given facts, cannot be deliberated together. In the opinion of this court, therefore, it was an error apparent on the face of the record.

24. Generally, when a review is allowed, the entire judgment is recalled; however, in the peculiar facts of this case, such may not be the course of action when the two sets of writ petitioners have different factual assertions, as recorded herein above.

25. Accordingly, the judgment and order 09.05.2025 passed in WP(C) No.7365/2023 is hereby recalled, so far as the same relates to the present petitioners. For clarity, the judgment shall remain operative so far as it relates to the petitioners in WP(C) No.7365/2023 and not for the petitioners of WP(C) No.3100 & WP(C) No.1996/2024.

26. Accordingly, the writ petition being WP(C) 7365/2023, stands revived. The registry is directed to list the same before the appropriate bench as per the roster.

JUDGE

Comparing Assistant