

GAHC010128372021



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

Case No. : WP(C)/4278/2021

HAM-AK COLLEGE OF PHARMACY, DENTAL AND MEDICAL SCIENCES,
NAGAON
REPRESENTED BY ITS DIRECTOR, INAMUL HASSAN WHOSE REGISTERED
OFFICE IS AT HATIZUZUZA, NAGAON, P.O.-HATIZUZUZA, P.S.-JAJORI,
DIST-NAGAON, ASSAM

VERSUS

THE PHARMACY COUNCIL OF INDIA AND 2 ORS.
(A STATUTORY BODY WORKING UNDER THE MINISTRY OF HEALTH AND
FAMILY WELFARE, GOVERNMENT OF INDIA, NEW DELHI, PIN-110002)
REPRESENTED BY ITS REGISTRAR CUM SECRETARY, P.C.I., NBCC
CENTRE, 3RD FLOOR, PLOT NO 2, COMMUNITY CENTRE, MAA
ANANDAMAI MARG, OKHAL PHASE-I, NEW DELHI-110020

2:THE ACADEMIC REGISTRAR
ASSAM SCIENCE AND TECHNOLOGY UNIVERSITY
TETELIA ROAD
NEAR ASSAM ENGINEERING COLLEGE
JALUKBARI
GUWAHATI
PIN-781013

3:THE PRINCIPAL SECRETARY
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE SRIMONTA SANKARDEVA UNIVERSITY OF HEALTH SCIENCE
REPRESENTED BY REGISTRAR

THE SRIMONTA SANKARDEVA UNIVERSITY OF HEALTH SCIENCE

NARKASUR HILL TOP
BANGAGARH
GAUHATI-32
KAMRUP(M) ASSA

Advocate for the Petitioner : MR. K A MAZUMDER, MR. H BURAGOHAIN,MR. A C BURAGOHAIN,MS. H BORAH,MS A DEVI,MR. H. BURAGOHAIN,MR E AHMED

Advocate for the Respondent : ASSTT.S.G.I., SC, HEALTH AND F W (R NO.3),SC, A S T U

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

13.02.2025

1. Heard Mr. A. C. Buragohain, learned Senior Counsel assisted by Ms. H. Borah, learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned Standing Counsel for the Health Department, Mr. S. Borthakur, learned Standing Counsel for the Assam Science and Technical University and Ms. A. Gayan, learned CGC representing the Pharmacy Council of India.
2. The present writ petition has been filed primarily assailing the decision of Assam Science and Technology University in not considering the affiliation of the petitioner's institution and insistence of No Objection Certificate for affiliation by the State Government.
3. The fundamental ground of such challenge is that the No Objection Certificate as insisted by the State Government is in derogation of Pharmacy Act as well as the regulation framed thereunder as well as in contravention of All Indian Council of Technical Education Act, 1987.
4. Mr. Borthakur, learned Standing Counsel for the Assam Science and Technology University, submits that the power to grant affiliation to pharmacy institution has

been withdrawn by the State Government under its policy dated 07.11.2023 issued in the name of Governor of Assam and published in the official gazette dated 08.11.2023 and therefore, they are not in a position to grant such affiliation without having any authority.

5. The aforesaid policy decision in fact prescribes that all affiliations relating to Pharmacy, Nursing and allied Health Science courses under the State Universities of Assam are to be migrated to Srimanta Sankaradeva University of Health Sciences within three years from issue of the said notification. The said notification has been brought on record by the Joint Secretary to the Government of Assam, Medical Education & Research Department.
6. Though, Mr. Buragohain, learned Senior Counsel for the petitioner argues that such notification is prima facie bad for the reason that the State Government is not having any sanction and authority under law to issue such notification and such notification is repugnant to the Central Acts holding the field in this regard, such as Pharmacy Act, the All India Council of Technical Education Act as well as the State University Act, however, such argument cannot be entertained in the present writ petition in absence of challenge to such policy decision notified by the Government in the name of Governor by publishing it in the official gazette.
7. At this stage, Mr. Buragohain, learned Senior Counsel for the petitioner submits that he may be granted some time to complete his instruction and to challenge the aforesaid notification in a separate writ petition if so advised. Prayer stands allowed.
8. Accordingly, list this matter after one week on a date to be fixed by the Registry.

JUDGE

Comparing Assistant