



**IN THE GAUHATI HIGH COURT**  
**HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH**  
**KOHIMA BENCH**

**WP(C)/246/2023**

1. Rongsenkangla,  
Lower Agri Colony Kohima Nagaland.
2. Khekiho Yeptho Hoishe, Village Satakha  
Zunheboto.
3. Sennilo Nmesen, Ehunnu Village T5  
Seminyu.
4. Smti Pausui Newmai, Ntu Village Pere
5. Smti. Rangwam Zeliang, Jalukie Colony  
Ward-9.
6. Khrunezo Swuro, Sekruzu Town Chozuba.
7. Shri Keviletuo Keyho, Tuolazuma Village  
Chumukedima.
8. Smti Kenyule Lorin, Lower Kenuozu Hill  
Kohima.
9. Lonyule Semp, Tseminyu Old Town Ward  
9.

10. Smti. Henelo Kath, Police Complex Chumukedima.
11. Shri Limatemsu Aonok, Changki Village Mokokchung.
12. Shri O. Echanthung Lotha, E. Khel Wokha Village Wokha.
13. Smti Athonle Seb Tseminyu Town.
14. Smti Lemeno Nagi, Kuda Village A-Khel.
15. Shri Thonyusie Joshoury, Lephori Village Phek,
16. Shri Hetoho, Khetoi Village Aghunato Zunheboto.
17. Smti Khrievonuo Nakhro, E. Khel Wokha Village, Wokha.
18. Shri Marius Shitiri, Lakhuti Village Wokha.
19. Shri Mhonthung Lotha, Tsumang B Wokha Nagaland.
20. Shri Imkongmeren, New Ministers Hill Kohima.
21. Smti Hengwale Thyug, New Terogvunyu Village Tseminyu.
22. Smti Imnatola, Changki Village, Mokokchung.
23. Shri Supenthung Murry, Wokha Village.

24. Smti Zakiesanuo Angami, Nerhe Model Village.
25. Smti Thejanuo Angami Ghs Thetsumi Phek.
26. Smti Vekute-U Nuh Gps Leangnyu Village Mon.
27. Shri Tokavi Sema Mishikito Village Dimapur.
28. Shri Sulto Chaya Gms K Khel Viswema Kohima.
29. Smti K Chondano Lotha, Shaki Village Wokha.
30. Shri M Tsabemo Ngullie Sungro Town Wokha Nagaland.
31. Smti Imtitula Impur Mokokchung.
32. Shri Tenuchuba Jamir New Impai Village Peren.
33. Smrti T Merenlemla Lakhumi Village Mokokchung.
34. Shri S. Imsujungba Phom Yaongyimchen Village.
35. Shri P.Bomthai, Tamlu Village Longleng.
36. Shri Imtingangin Zuxushe Village.
37. P. Temsupokla Longkumer Lower Forest Colony Kohima.

38. Smti N.Ngamnon Konyak Mon Town.
39. Smti Khitile Jemu Tesophenyu Village Tsemenyu.
40. W.Yemnyie Phom Yongshei Village Longleng.
41. Smti Nchumbeni Tsopeo Mekirang Village Wokha.
42. Smti Nukshila Sangtam Suhoi Village Nuiland.
43. Smti Toheli Akuhaito Zunheboto.
44. Smti Kenysinle Magh Upper Midland Kohima.
45. Shri B.Wanglen Phom Tamlu Village Longleng.
46. Smti Mhalevinuo Suokhrie Meriema Village Kohima.
47. Smti Kisheli Jekha Kramsa Vilage Dimapur.
48. Smti Chubatula Longkongmendang Ward Tuli Mokokchung.
49. Smti Keshelena Angeline Tuli Mokokchung
50. Smti Medosanuo Lhousa Mezoma Village Kohima.
51. Smti Soyhunle Kent, Upper Chandmari Kohima.

52. Smti Nevutalu Tetseo, Zani Village Dimapur.
53. Shri Sentizulu Pongen Changki Village Mokokchung.
54. Shri Meshenti Magh C.Khel Kuda Village Dimapur.
55. Intimangyang Ao Chuchuyimpang Village Mokokchung.
56. Smti Remenjungla Moloum Villager Medziphema.
57. Shri Sentilo Semy Nsunyu Village Tsemenyu.
58. Shri Vihoto K.Sumu, L.Khel, Diphupar Dimapur.
59. Smti Rokuosienuo, New Market Kohima.
60. Shri Nei-U Angami Chiechama Village Kohima.
61. Smti L.Alovin Sumi Tobu Mon.
62. Smti Aienla Ao Officers' Hill Kohima.
63. Smti Meyinungla, Penli Ward Mokokchung.
64. Shri Diethose-U Mezoma Village Kohima.
65. Shri Isaac Lotha Pangti Village Wokha.
66. Shri Eluthiyi Ruho Pfusachodu.
67. Shri Longvai Phom Longleng Nagaland.

68. Shri Kethosilie Sekhose Kohima Village Kohima.
69. Shri Thungdemo Tsopoe Ghss Sungro Wokha.
70. Shri Keviyabei Rupreo Chiechama Village Kohima.
71. Smti K.Bichano Yantha Gms Humtso Wokha Town.
72. Shri L.Mongchon Khiam Gms New Pangsha Noklak.
73. Shri Mr.T.Langpe Phom Yongam Village Longleng.
74. Smti Kirentitla Imkonglenden Colony Dimapur.
75. Smti T.Lentila Ao Molungyimsen Village Mokokchung.
76. Smti Watila Ao Aonokpuyimsen Mokokchung.
77. Smti Mr.E.Lochemi Kikon Wakchung Mon.
78. Shri Kedutsolhou Venuh Phek Town Phe.

**.....Petitioners**

***-Versus-***

1. The State of Nagaland,  
Represented by the Chief Secretary to the  
Government of Nagaland.

2. The Commissioner and Secretary Department of School Education Nagaland Kohima.
3. The Principal Director Directorate of School Education Nagaland.
4. The Principal Government Hindi Institute Dimapur. Nagaland.
5. The Director Kendriya Hindi Shikshan Mandal Agra-28200.

**.....Respondents**

For Petitioners : Mr. C. T. Jamir, Sr.Advocate  
: Mr. Aliba Ozukum, Advocate

For Respondents : Ms. V. Suokhrie, Additional Advocate General

Date of Hearing : 21.08.2025

Date of Judgment : 16.02.2026

**BEFORE  
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA  
JUDGMENT AND ORDER (CAV)**

1. Heard Mr. C.T. Jamir, learned senior counsel assisted by Mr. Aliba Ozukum, the learned counsel for the petitioners. Also heard Ms. V. Suokhrie, the learned Additional Advocate General appearing for the State respondents.
2. This writ petition under Article 226 of the Constitution of India has been filed by the petitioners, namely, Ms. Rongsenkangla and 77 others, praying for issuance of a writ in the nature of mandamus and/or any other appropriate writ/order or direction of like nature.

- 3.** In the instant writ petition, the petitioners have impugned the Circular No. B/HT/RLX/1/2021-2022, dated 15.03.2023 and 28.03.2023 issued by the Directorate of School Education, Nagaland (Respondent No. 3).
- 4.** The facts relevant for consideration of the instant writ petition, in brief, are that the petitioners are employed as Primary Hindi teachers under the Directorate of School Education, Nagaland. It is contended in the writ petition that the petitioners had done diploma in Hindi teaching, on the basis of written tests followed by interviews conducted by the Government of Nagaland, which had invited applications from candidates having minimum qualification of Class-8 to undergo Hindi Teachers training.
- 5.** It is contended by the petitioners that in pursuant to the invitation by the Government of Nagaland to undergo Hindi Teachers training they had undergone such training in Government Hindi Institute, Dimapur for three years. After successfully completing three years course they were thereafter, sent to Kendriya Hindi Sansthan, Agra to undergo rigorous teachers education training for one year.
- 6.** It is also contended by the petitioners, in the writ petition, that initially the eligibility criteria for undergoing Hindi Teachers training was Class-8 pass in general which was subsequently enhanced to Class 10 pass and, thereafter, to Class-12 pass. In support of their contention, the petitioners have annexed several advertisements for such course in which eligibility criteria have been mentioned as

stated herein before the petitioners. The petitioners were appointed on various dates (from 2001 to 2012).

- 7.** Their selection was made by the departmental selection committees. Though, some of the petitioners were appointed on ad-hoc basis initially, however, the services of all the petitioners have, in the meantime, been regularized and they were posted in different Government Middle Schools as primary Hindi Teachers all over the State of Nagaland.
- 8.** Mr. C.T. Jamir, the learned senior counsel for the petitioners has submitted that the Government of Nagaland took up initiative for setting up of Hindi Teachers Training Institute at Dimapur and owing to shortage of Hindi teacher in the States invited candidates possessing Class-8 pass qualification to undergo teachers training/diploma in Hindi from the aforesaid Institute. Accordingly, all the petitioners had applied to the said course and had successfully undergone the aforesaid diploma course and thereafter, undergone one year course from Kendriya Hindi Sansthan, Agra.
- 9.** He submits that the course undergone by the petitioners i.e., "*Hindi Sikshan Pravin*" is equivalent to teachers training certificate/diploma as same has been acknowledged by the Government of India in its letter dated 25.11.2003, which is annexed as Annexure-D to the writ petition. The learned senior counsel for the petitioners has submitted that some of the petitioners have by now served more than 20 years as primary Hindi teachers and others have completed

more than 10 years as such teachers and they were all along treated by the respondent authorities as trained Hindi teachers.

- 10.** However, he submits that, on 04.09.2017 the respondents had issued a press release whereby the petitioners were directed to undergo Diploma in Elementary Education (D.El.Ed.), though, other Hindi teachers who were appointed prior to 03.09.2001 were exempted from undergoing such diploma in elementary education.
- 11.** Thereafter, by a Circular dated 15.03.2023, which has been impugned in this writ petition, the respondents directed the petitioners to submit necessary documents pertaining to their educational qualification, i.e., for undergraduate Hindi Teachers, Class 10 and Class 12, both general and Hindi to the concerned DEOs/SDEOs, on or before 29.03.2023. Subsequently, by another Circular issued on 23<sup>rd</sup> August, 2023, the respondent No.3 directed all the untrained Hindi teachers (diploma certificate holder) serving under the directorate of school education, who are yet to submit their general qualification certificate, up to class 12 qualified, to submit the same on or before 26.08.2023, without fail. Both the aforesaid circulars have been impugned by the petitioners in this petition, as arbitrary, unreasonable, and illogical, vis-à-vis the present petitioners.
- 12.** The learned senior counsel for the petitioners has submitted that the Central Institute of Hindi, Agra, by its letter dated 13.10.2017, written to the vice-principal of the Government Hindi Institute, Dimapur, had clearly communicated that Hindi teachers diploma from Kendriya Hindi Sansthan, Agra are trained to teach Hindi in Na-

galand. Under such circumstances, he submits that it was wrong to treat the petitioners as untrained Hindi teachers. He submits that the petitioners had filed a representation for revocation of the Circular dated 23.08.2023. However, the respondents have not paid any heed to the said representation. Hence, they were compelled to approach this Court. He submits that when the petitioners have undergone Hindi training from the Central Institute of Hindi, Agra, as well as from the Government Hindi Training Institute, Dimapur, and have served as primary teachers for such a long period of time, now at this stage, they cannot be treated as untrained teachers after rendering their serving as primary Hindi teacher at the prime of their life.

- 13.** He submits that some of the colleagues of the present petitioners who were appointed prior to September 2001, have not been asked to undergo the diploma in elementary education and have not been asked to produce their documents of Class 12 and, as such, he submits that the classifying the present petitioners who are the diploma certificate holder in Hindi as an untrained Hindi teacher is unreasonable, discriminatory, and derogatory, hence, the impugned circulars are liable to be quashed.
- 14.** The learned senior counsel for the petitioners further submits that the present petitioners have undergone the diploma certificate course in Hindi in Hindi medium language, whereas, the diploma in elementary education is conducted in English medium language and the petitioners who do not have proficiency in English language

cannot be compelled to undergo another diploma, which is taught in English medium, as same would be irrational and illogical.

- 15.** The learned senior counsel for the writ petitioners has also submitted that the Ministry of Human Resource Development, Department of Secondary and Higher Education of Government of India, by its letter dated 25.11.2003 (annexed as Annexure-D in the writ petition) had issued advisory to all the State Government to recognize the examination conducted by Kendriya Hindi Sansthan, Agra for the purpose of employment of Hindi teachers and in the said letter the course of *Hindi Sikshan Pravin* conducted by the Kendriya Hindi Sansthan, Agra is shown to be equivalent to teacher training certificate diploma. However, the State of Nagaland had not complied with the said advisory and not issued any notification to that effect.
- 16.** The learned senior counsel for the writ petitioners has submitted that since at the time of appointment of the petitioners as primary Hindi Teachers the eligibility criteria was Class-8 pass and Diploma Course in Hindi which all the petitioners possess, it is unreasonable on the part of respondent authorities to direct them to produce the certificates of general qualification till Class-12 pass as they don't possess the said certificate and at this belated stage they also cannot be expected to undergo 10+2 course after rendering their services for such a long period as Hindi teachers.
- 17.** The learned senior counsel for the petitioners further submits that the eligibility criteria of securing 50% marks in Class 12 as well as a Diploma in Elementary Education has been incorporated in the Na-

galand School Education Service Rules in the year 2017. As such, any teacher who has been appointed prior to coming into force of said Rules may not be regarded as ineligible, if he fails to conform to the requirements as prescribed by the said rules. He submits that the said Rules cannot have retrospective effect as rules are made only to be made effective prospectively. He submits that the petitioners were possessing the eligibility criteria as prescribed by the State Government in the advertisements by which they were appointed. He submits that the State Government having utilized the services of the petitioners and also after having regularized their services as primary Hindi Teachers cannot impose unreasonable conditions with an ulterior motive of ultimately dismissing them from service on this count. He submits that the advertisement which the State respondent had issued on earlier occasion in response to which some of the petitioners had applied and got selected and ultimately, appointed as primary Hindi teachers required the qualification of only Diploma in Hindi for undergraduate teachers and as such, after having been qualified, appointed and served for such a long period a new education qualification may not be imposed for their continuation in the service as the same would be unreasonable, arbitrary and illogical. He submits that it would be violative of the fundamental rights of the petitioner under Article 14 and 21 of the Constitution of India and as such, he submits that the impugned circulars are liable to be set aside and quashed.

- 18.** On the other hand, Ms. V. Suokhrie, the learned Additional Advocate General has submitted that though, initially owing to acute shortage

of Hindi teachers, some relaxation was given to the petitioners while engaging them as primary Hindi teachers. However, after enactment of Right of Children to Free and Compulsory Education Act, 2009 all untrained teachers were required to be imparted training within a period of five years. She submits that in light of provisions of the said Act, the Central Government had also by notification dated 31.03.2010 notified the National Council of Teacher Education (NCTE) as the academic authority for prescribing teachers' qualification.

- 19.** She submits that the NCTE has laid down the requisite teacher qualification as per its Notification dated 23.08.2010. The Department of School Education also introduced the Nagaland School Education Service Rules in the year 2017, incorporating the standards set forth by NCTE. According to the provisions of the Rules, for all in-service teachers, requirement of obtaining a Diploma in Elementary Education with minimum eligibility requirement of 50% in class XII has been prescribed. She Submit that the Central Government has also written letter on 03.08.2017 to all States including the State of Nagaland regarding training of untrained teachers and action to be taken thereof.
- 20.** She submits that as per the mandate of Nagaland School Education Service Rules, 2017, which is in terms with the qualification prescribed by NCTE under RTE Act, 2009, the diploma course undertaken by the petitioner cannot be deemed to be sufficient to qualify them to be regarded as trained teachers, accordingly, the represen-

tations submitted by the petitioners were not considered by the State respondents.

- 21.** She has further submitted that on 15.09.2021, the respondents' authority (Respondent No. 3) had issued a notification whereby the in-service Hindi teachers, who were not found eligible to be regarded as trained Hindi teachers as per the NCTE norms were required to acquire the requisite academic and professional qualifications as per the said norms within a period of five years with effect from the year 2022 to 2027, which may also be done from institutions such as NIOS and IGNOU. She submits that many of the untrained Hindi teachers have completed their training or are undergoing such training in Hindi, however, it is only the present petitioners who have not done so and have challenged the Circulars dated 15.03.2023 and 23.08.2023.
- 22.** The learned Additional Advocate General has submitted that as the future of those students who would be taught by the untrained primary Hindi teachers are at stake, the teachers are required to possess minimum prescribed qualification, as prescribed by the statutory authority like NCTE, for continuing as Hindi teachers. She submits that asking the untrained Hindi teacher to acquire the requisite minimum qualification for continuing as Hindi teachers can neither be regarded as unreasonable nor can be considered as motivated by any ulterior motive.
- 23.** She submits that the course conducted by Central Institute of Hindi, Agra is not recognized by NCTE nor its syllabus and academic dura-

tion is fixed as per the norms of NCTE and the same has been acknowledged by the Director of *Kendriya Hindi Sansthan*, Agra in a letter dated 11.07.2023 addressed to the Respondent No. 3 (*the said letter is annexed as Annexure-4 in the affidavit-in-opposition filed by the State Respondent*).

- 24.** She further submits that whether the diploma undergone by the present petitioner can be equated with the Diploma in Elementary Education as prescribed by the NCTE is a technical question which can be determined by the Government or statutory bodies on recommendation of an expert body, than by Court of law, which is uninformed of relevant data and unaided by technical expertise necessary for the purpose of determining the equivalence. Hence, she submits that when the institution from where the petitioners have obtained their diploma course has itself clarified that the diploma course undergone by them is not equivalent to the Diploma in Elementary Education as prescribed by NCTE, no further doubt remains in this matter and she submits that the Court should not, therefore, delve into this aspect, which requires technical expertise. In support of her submission, she has cited a ruling of the Apex Court in the case of "***Devendra Bhaskar and Others Vs. State of Haryana and Others***" reported in "***2021 SCC online SC 1116***." She, therefore, submits that the writ petition filed by the present petitioners is liable to be dismissed.
- 25.** I have considered the submissions of learned counsel for both sides and have gone through their respective pleadings supported by affida-

vits. I have also gone through the ruling cited by the learned counsel in support of their respective submissions.

- 26.** It appears that the only relief sought for by the petitioners in this writ petition is for quashing and setting aside of the impugned circular dated 15.03.2023 and 23.08.2023 issued by Respondent No. 3. No other relief has been sought for by the petitioners in this case.
- 27.** It is pertinent to mention herein that when the writ petition was listed for motion before this Court, while issuing notice to the respondents, this Court, by its order dated to 02.11.2023, had suspended the operation of the impugned circulars so far as petitioners are concerned. Though, no specific relief has been claimed against the press release dated 04.09.2017 issued by the respondent No. 3, however, from the contentions raised by the petitioners in the body of the writ petition as well as submissions made by learned senior counsel for the petitioners, it appears that the petitioners are also agitated with the aforesaid press release dated 04.09.2017. By the aforesaid press release, those elementary teachers who were appointed after 03.09.2001 were required to be enrolled for Diploma in Elementary Education course through NIOS portal, latest by 25.09.2017.
- 28.** It also appears that by the impugned circular dated 15.03.2023, the untrained Hindi Teachers (under graduate teachers and graduate teachers) serving under the Directorate of School Education, Nagaland, who were appointed after September 2001, were directed to submit their educational qualification documents from Class 10 and Class 12 and Hindi. Similarly, the graduate teachers were directed to produce the document from Class 10 up to BA. The deadline which

was mentioned for furnishing said document was 06.04.2023. However, it appears that by the subsequent impugned circular, i.e., the circular dated 23.08.2023, the deadline for submitting the certificates up to Class 12 qualified was extended till 26.08.2023.

- 29.** The main contention of the petitioners is that they have undergone Hindi Diploma Course from Government Hindi Institute, Dimapur and Kendriya Hindi Sansthan, Agra and that when most of the petitioners had done the said diploma course, the eligibility criteria for undergoing such a diploma course was Class 8 pass only, therefore, they had not passed Class-12 when they did the aforesaid course. It also appears that the National Council for Teachers Education (NCTE) which was authorized in exercise of powers conferred under Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 to lay down the curriculum and minimum qualifications for a person to be eligible for appointment as teacher for class 1 to class 8 of a school were notified on 23.08.2010, wherein, the requirement of at least 50% marks in higher secondary course and two years Diploma in Elementary Education was prescribed. It also appears that said eligibility criteria was also incorporated in the Nagaland School Education Service Rules 2017.
- 30.** However, it is not disputed that all the petitioners were appointed before coming into force of Nagaland School Education Service Rules, 2017. The contention of the learned Counsel for the petitioners that since the Nagaland School Education Service Rules, 2017 which incorporated the standards set forth by NCTE regarding minimum eligibility criteria of 50% in Class 12 as well as a Diploma in Elementary Education as a qualification to be appointed as primary teachers may be ef-

fective only prospectively, i.e., for all such appointments, which are made after the said rules coming into force. The said submission of the learned senior counsel for the petitioners appears to have force in it, as the petitioners were appointed prior to coming into force, of the Nagaland School Service Education Rules, 2017, the minimum education qualification required for appointment as Primary Hindi teachers cannot be retrospectively applied to the petitioners, who were appointed much earlier than that and whose services were also regularised and who have rendered sufficient and who have rendered their services for a long period of time. However, this has been overridden by the statutory provision in Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009, which has not been challenged by the petitioners and which provides for as follows :-

*"(2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification:*

*Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years:*

*[Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess*

*minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017 (24 of 2017).]*”

- 31.** It is also a fact that the diploma course undergone by the petitioners from Kendriya Hindi Sansthan, Agra, (Central Institute of Hindi, Agra) cannot be equated with the Diploma in Elementary Education prescribed by the National Council of Teachers Education, as the same is apparent from the letter dated 11.07.2023 of the Director of Central Institute of Hindi, Agra written to the Respondent No. 3 and annexed as Annexure 4 along with the affidavit-in-opposition filed by the Respondent No. 1, 2 and 3.
- 32.** Further as held by the Apex Court in a catena of judgment which were discussed by the Apex Court in the case of **"Devendra Bhaskar and Others Vs. State of Haryana and Others"** (*Supra*), the equivalence of qualification is a matter for the State as recruiting authority to determine. The relevant observation of the Apex Court in the aforesaid judgment are quoted herein below:

*"21. In Mohd. Shujat Ali v. Union of India [Mohd. Shujat Ali v. Union of India, (1975) 3 SCC 76 : 1974 SCC (L&S) 454], it was held that the question regarding equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standards and practical attainments of such qualifications. It was further held that where the decision of the Government is based on the recommendation of an expert body, then the Court, uninformed of relevant data and unaided by technical insights necessary for the purpose of determining equivalence, would not lightly disturb*

*the decision of the Government unless it is based on extraneous or irrelevant considerations or actuated mala fides or is irrational and perverse or manifestly wrong.*

**22.** *In J. Ranga Swamy v. State of A.P. [J. Ranga Swamy v. State of A.P., (1990) 1 SCC 288: 1990 SCC (L&S) 76] this Court held that it is not for the court to consider the relevance of qualification prescribed for various posts.*

**23.** *In State of Rajasthan v. Lata Arun [State of Rajasthan v. Lata Arun, (2002) 6 SCC 252: 2002 SCC (L&S) 859: 5 SCEC 268] this Court held that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It was held thus: (SCC p. 258, para 13)*

*"13. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority."*

**24.** *In Guru Nanak Dev University v. Sanjay Kumar Katwal [Guru Nanak Dev University v. Sanjay Kumar Katwal, (2009) 1 SCC 610 : 3 SCEC 452] this Court has reiterated that equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. Dealing specifically with whether a distance education course was equivalent to the degree of MA (English) of the appellant university therein, the Court held that no material had been produced before it to show that the distance education course had been recognised as such.*

**25.** *In Zahoor Ahmad Rather v. Imtiyaz Ahmad [Zahoor Ahmad Rather v. Imtiyaz Ahmad,*

*(2019) 2 SCC 404: (2019) 1 SCC (L&S) 353] , it was held that the State, as an employer, is entitled to prescribe qualifications as a condition of eligibility, after taking into consideration the nature of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications, etc. Judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. Equivalence of qualification is a matter for the State, as recruiting authority, to determine.”*

- 33.** Thus, in the instant case, when the director of Central Institute of Hindi, Agra has himself clarified by his letter dated 11.07.2023, giving reasons therein, that the diploma course conducted by the Central Institute of Hindi, Agra has not been recognized by NCTE and nor the syllabus and academic duration fixed as per the norms of NCTE, therefore, same cannot be regarded equivalent to Diploma in Elementary Education (D.El.Ed.) course is no longer a disputable question.
- 34.** On the basis of the affidavit-in-opposition filed by the State respondent as well as submissions made by learned Additional Advocate General, it appears that in pursuant to the provisions of Right to Education Act 2009, the National Council for Teachers Education was notified as the academic authority for prescribing teachers qualifications and in exercise of its powers vested in it by the aforesaid Act, the NCTE has laid down requisite teachers qualification as per its notification dated 23.08.2010.
- 35.** The notification dated 23.08.2010, issued by National Council for Teachers Education, prescribing minimum qualifications for a person to be eligible for appointment as a teacher in Class-1 to Class-8 of a

school referred to in Clause (n) of Section-2 of the Right of Children to free in Compulsory Education Act, 2009 is quoted herein below:-

NATIONAL COUNCIL FOR TEACHER EDUCATION

NOTIFICATION

New Delhi, the 23rd August, 2010

F. No. 61-03/20/2010/NCTE/(N&S).—In exercise of the powers conferred by Sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009), and in pursuance of Notification No. S.O. 750 (E) dated 31st March, 2010 issued by the Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, the National Council for Teacher Education (NCTE) hereby lays down the following minimum qualifications for a person to be eligible for appointment as a teacher in class I to VIII in a school referred to in clause (n) of Section 2 of the Right of Children to Free and Compulsory Education Act, 2009, with effect from the date of this Notification :—

**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)*

AND

*(b) Pass in the Teacher Eligibility Test (TED) to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.*

*(ii) Classes VI-VIII*

*(a) B.A/B.Sc and 2 - year Diploma in Elementary Education (by whatever name known)*

*OR*

*B.A/B.Sc with at least 50% marks and 1-year Bachelor in Education (B.Ed)*

*OR*

*B.A/B.Sc with at least 45% marks 1-year Bachelor in Education (B.Ed). in accordance with the NCTE(Recognition Norms and Procedure) Regulations issued from time to time in this regard.*

*OR*

*Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor in Elementary Education (B.EI. Ed.)*

*OR*

*Senior Secondary (or its equivalent) with at least 50% marks and 4 year B.A/B.ScEd or B. A.Ed/BSc.Ed.*

*OR*

*B.A/B.Sc with at least 50% marks and 1year B.Ed (Special Education)*

*AND*

*(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Cement in accordance with the Guidelines framed by the NCTE for the purpose.*

*2. Diploma/Degree Course in Teacher Education.- For the purposes of this Notification, a diploma/degree course in teacher education recognized by the National Council for Teacher Deucalion (NCTE) only shall be considered. However, in case of Diploma in Education (Special Education) and B. Ed (Special Education), a course recognised by the Rehabilitation Council of India (RC) only shall be con-*

sidered

**3. Training to be undergone.-A person-**

(a) with BA/B.Sc. with at least 50% marks and B. Ed qualification shall also be eligible for appointment for class I to V upto 1st January, 2012, provided he undergoes, after appointment, an NCTE recognized 6-month special programme in Elementary Education.

(b) with D. Ed (Special Education) or B. Ed (Special Education) qualification shall undergo, after appointment an NCTE recognized 6-month special programme in Elementary Education.

**4. Teacher appointment before the date of this Notification.** The following categories of teachers appointed for classes I to VIII prior to date of this Notification need not acquire the minimum qualifications specified in Para (1) above,:

(a) A teacher appointed on or after the-3<sup>rd</sup> September, 2001 i.e. the date on which the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time) came into force, in accordance with that Regulation.

Provided that a teacher of class I to V possessing B. Ed qualification, or a teacher possessing B. Ed (Special Education) or D. Ed (Special Education) qualification shall undergo an NCTE recognized 6 - month special programme on elementary education.

(b) A teacher of class 1to V with B. Ed qualification who has completed a 6-month Special basic Teacher Course (Special BTC) approved by the NCTE;

(c) A teacher appointed before the 3<sup>rd</sup> September 2001, in accordance with the prevalent Recruitment Rules.

5. Teacher appointed after the date of this Notification in certain cases. - Where an appropriate Government or local authority or a school has issued an

*advertisement to initiate the process of appointment of teachers prior to the date of this Notification, such appointments may be made in accordance with the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time)."*

- 36.** On careful perusal of the aforesaid notification, it appears that it prescribes minimum qualification for a person to be eligible for appointment as teacher in Class-1 to Class-8 of a school. In clause No.3 of the above notification, it also prescribes the period of training to be undergone for certain category of persons after their appointment. It also contemplates in clause No. 4, of the said notification regarding few categories of teachers appointed for Class-1 to 8 prior to the date of the notification i.e., 23.08.2010.
- 37.** However, in Paragraph No.4 (a) on the above notification, it only speaks about those category of teachers who are appointed after 03.09.2001, in accordance with the NCTE (determination of minimum qualification of recruitment of teachers in school) Regulation, 2001, with a proviso that a teacher of Class-1 to 5 possessing B.Ed, etc. shall undergo an NCTE recognized in six months special program on elementary education.
- 38.** Clause-4(B), gives an exemption from possessing minimum qualification prescribed by the above notification for a teacher of Class-1 to 5 with B.Ed qualification who has completed six months special basic teachers course (Special BTC) approved by NCTE. Clause-4(C) of the above notification provides for an exemption from possessing mini-

minimum qualification to for teacher appointed before 03.09.2001 in accordance with the prevailing recruitment rules.

- 39.** Clause-5 of the above notification deals with those cases where an appropriate Government has issued an advertisement to initiate the process of appointment of teacher prior to date of the aforesaid notification i.e., 23.08.2010. Such appointments have to be made in accordance with the NCTE (the determination of minimum qualification for recruitment of teachers in schools) Regulation, 2001.
- 40.** Thus, it appears that though the foresaid notification dated 23.08.2010 provides for the cases where appointment was made after 03.09.2001 in accordance with NCTE (determination of minimum qualification of recruitment of teachers in school) Regulation, 2001, as well as those teachers, who were appointed prior to the said date in accordance with prevalent rules. However, it does not specifically provide for as to how to deal with the teachers who though, appointed in pursuant to an advertisement, however, no recruitment rules were prevalent at that point of time, and nor the NCTE (determination of minimum qualification of recruitment of teachers in school) Regulation, 2001, has been adhered to.
- 41.** In the instant case, though, the appointments were made prior to the notification dated 23.08.2010 issued by the National Council for Teachers Education prescribing the minimum eligibility criteria for appointment as teachers of for Class 1 to Class 8, however, the said appointments were made after coming into force of the NCTE (determination of minimum qualification for recruitment of teachers in schools)

Regulation 2001, however, the appointing authorities had not complied with the same.

- 42.** It appears that the aforesaid lapse on the part of the appointing authority (state respondents), after rendering more than 10 years, in some cases more than 20 years of service, to the state as primary Hindi teachers, the petitioners may not be penalized as they have been appointed by the State on the basis of eligibility criteria prescribed by the state respondents at the time of their appointment.
- 43.** However, the question of acquisition of minimum qualification by those teachers who does not possess the minimum qualification as laid down by the NCTE has been dealt with by the statute i.e., under Section 23 Clause (2) of the Right of Children to Free and Compulsory Education Act, 2009 which provides that a teacher who at the commencement of this Act does not possess minimum qualification as laid down under subsection (1) shall acquire such minimum qualification within a period of 5 years. The said period has been extended by an amendment to the Right of Children to Free and Compulsory Education Act, 2009.
- 44.** It also appears that State Respondents by its Notification dated 15.09.2021 bearing No. ED/CSS/RLX/1/2021-22 has extended the said date to a further period, by providing that all untrained teachers shall have to undergo required academic qualification and professional training within five years' time frame, that is, with effect from 2022 to 2027. The aforesaid statutory provision contained in the RTE Act, 2009 as well as the notification dated 15.09.2021 has not been challenged by the petitioners. Hence, same is binding on the petitioners.

However, the fact remains that the impugned circulars direct the petitioners to produce their educational qualification documents on or before 06.04.2023, which is prior to the extended time granted by the State respondents by its notification dated 15.09.2021. Hence, though, the petitioners in terms of the statutory mandate of RTE Act, 2009 are required to acquire the minimum qualifications within the prescribed time frame, however, the Notification dated 15.09.2021 has extended the time for acquisition of required minimum academic qualification to the year 2027. Before the lapse of said time-frame, the petitioners may not be compelled to produce their educational qualification documents. The impugned circular issued by the Respondent No.3 appears to be contrary to its notification dated 15.09.2021.

- 45.** In view of above discussion, this Court is of the considered opinion that though the petitioners are under the statutory mandate of acquiring the requisite minimum educational qualification as prescribed by the National Teachers Education Council, however, they have to do so within the extended timeframe in pursuant to Notification dated 15.09.2021. Compelling the petitioners to produce their educational documents prior to lapse of the extended period would be contrary to the Notification dated 15.09.2021. The impugned circulars are, therefore, liable to be set aside.
- 46.** In view of the discussions made and reasons stated in the foregoing paragraphs, the impugned circulars are set aside.
- 47.** This writ petition is accordingly, disposed of.

**48.** Registry of the principal seat of the Gauhati High Court is directed to send this case record immediately the registry of the permanent bench of Gauhati High Court at Kohima.

**JUDGE**

**Comparing Assistant**