
(2006) 09 GAU CK 0105

In the Gauhati High Court

Case No : Writ Petition (C) No's. 5196 of 2005 and 6013, 6331, 7415, 7607, 8213 of 2004 and 3169 of 2006

Guneswar Musahary and Others

APPELLANT

Vs

Gauhati University and Others

RESPONDENT

Date of Decision : 27-09-2006

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14, 14(3), 15(3), 17, 17(1)

Citation : (2008) GLT 382 Supp

Hon'ble Judges : A. Hazarika, J

Bench : Single Bench

Advocate : M.U. Mahmud, K.R. Patgiri, I. Chaudhury, S.M. Abdullah, S.K. Sarma, D. Pathak, P.N. Goswami, C. Bhattacharyya, R. Sarma, P. Baruah, B.D. Goswami, K.H. Chaudhury, S. Hussain, S. Rahman, J.L. Sarkar, N. Choudhury, S.K. Ghosh and S.N. Tamuli, for the Appellant; L.P. Sarma, R. Bhattacharjee, G.P. Bhowmik, B.C. Bastia and S. Chakraborty, for the Respondent

Judgement

A. Hazarika, J.—The grievances raised in the seven writ petitions being similar, they are taken up for hearing together and disposed of by this common judgment and order.

2. The facts of the cases, in brief, are narrated hereunder.

3. In WP (C) No. 5196/05 the Principal-in-Charge, as well as, Secretary of Gossaigaon B. Ed. College, Gossaigaon (in short the "College") as writ Petitioners have approached this Court, seeking a writ of mandamus for a direction to the Respondents particularly Respondent No. 1 i.e. Gauhati University (G.U. for short) to allow the students/trainees of B.Ed. Course of Petitioners' college to appear in B. Ed. Examination for the session 2004-05 scheduled to be held in the year 2005 with all other required practical examination to be conducted by Respondent No. 1 i.e. Gauhati University.

The said writ petition came up for consideration before this Court on 22.7.05. This Court while admitting the writ petition by issuing rule, in the interim,

directed the Gauhati University Respondent No. 1 to accept the applications from the students of the B. Ed. course of the Petitioner's college and allow them to appear in the B. Ed. Examination 2005 for the session 2004-05 including the practice practical examination. While passing the aforesaid interim order, the court had also made it clear that the result of the examination shall not be pronounced without leave of this Court.

Subsequently, a miscellaneous application being Misc. Case No. 1345/06 was filed, praying for a direction to Respondent No. 1, i.e. Gauhati University, to declare the results of the B. Ed. Examination 2005, held on 18.9.05 of the Petitioner's college. However, vide court's order dated 10.5.06, the same was kept to be heard alongwith the main writ petition.

The Petitioner's case in brief is that, in anticipation of getting recognition for the session 2004-2005, the college authority had enrolled the students in B.Ed. Course for the session 2004-2005. Thereafter, various correspondences were made between the college authority and the Respondent No. 1, 2 and 3. The Petitioner's college is affiliated to the Gauhati University i.e., Respondent No. 1. But, after coming into force the National Council for Teacher Education Act. 1993 (hereinafter referred to as Act 1993), without the recognition u/s 14 of the Act, there could not have been any affiliation to the college by the University nor could the University allow the students from the college to appear in the examination. The terms and conditions laid down by National Council for Teacher Education (NCTE for short) are required to be fulfilled before granting recognition by NCTE for the session 2004-2005, though, the NCTE has recognised the college for the session 2005-2006, resulting in deprivation of the students of that college from appearing in B.Ed. Examination for the session 2004-2005, which culminated in filing the writ petition with the prayer as stated hereinabove.

4. In W.P. (C) No. 6013/04, the Petitioner is a society registered under the Societies Registration Act, 1860 and is the Governing Body of Asom Sikshak Prasikhan Mahavidyalaya (ASPM for short). The ASPM is an institution imparting training in teacher education, which was established way back in the year 1992. It has its own land and building. The ASPM as an premier institution imparting training in teacher education leading to Bachelor of Education Degree. The Executive Council of the G.U. by its resolution dated 11.9.93 granted permission to the sponsoring body of ASPM to start B. Ed. Courses for the session 1993-94, subject to the conditions mentioned therein. Accordingly, the institution started functioning and fulfilled all the required conditions. The Institution has also obtained affiliation from G.U. from the year 1993-94 and after obtaining temporary permission from G.U. to continue B.Ed. Classes the institution is conducting B. Ed. Courses from year to year. In the meantime, the NCTE Act, 1993 came into force with effect from 10.7.1995. Section 14 of the said Act provides for granting of recognition by NCTE to the institution offering course or training in teacher education. As per provision of the Act, 1993 the institution applied for granting recognition to the NCTE and NCTE upon consideration of the

application of ASPM accorded provisional recognition w.e.f. academic year 1999-2000 vide order dated 18.2.1999, issued by the Director, Eastern Regional Council (ERC for short), NCTE. The application of ASPM for recognition for the session 2000-2001, however, was not considered by NCTE, pursuant to the report submitted by a visiting team of NCTE and the students of ASPM thus appeared in the B.E& Examination through other recognized college. However taking into consideration the interest of the students the G.U. allowed the Institution to admit students to the B. Ed. Course for the session 2002-2003 only, within the permitted student intake, subject to obtaining recognition from NCTE and certain other conditions. In the meantime, on the basis of inspection conducted by Deputy Director, State Council of Educational Research and Training (SCERT for short), and the report thereof submitted by the Director, SCERT, before the Secretary, Education Department, Government of Assam, the Government of Assam issued "No objection certificate" to the Petitioner's institution. Thereafter, the ASPM submitted a fresh application dated 27.12.2002, to the ERC, NCTE for renewal of recognition alongwith the required information and relevant documents, whereupon, Regional Director, ERC informed the Petitioner that the application for grant of recognition for the session 2003-2004 could not be considered on the ground that, the same has not been submitted in new format in triplicate and that some documents are still required to be submitted. It was also informed that the application dated 27.12.2002 was received on 2.1.2003 and thus the same could not be considered for grant of recognition for the session 2003-2004. The Principal of ASPM, has in the meantime forwarded the documents to the Regional Director, ERC as required by NCTE, but no order has been passed by the authority (NCTE).

Pursuant to notification issued by GU. dated 1.9.2003, the ASPM had admitted students and they have completed their course at ASPM and are ready to appear in the B.Ed. examination for the session 2003-2004 to be commenced from 18.9.2004 and therefore approached this Court by way of this instant writ petition, praying inter alia therein, for setting aside the decision of Executive Council, G.U. taken in its meeting held on 3.7.2004 and 14.8.2004, as well as the decision of Respondent No. 3 (NCTE). Petitioner has further prayed for a direction to the Gauhati University to allow the students of the Petitioner's institution to appear in the B.Ed. Examination, 2004 from ASPM and for a direction to Respondent No. 3 to consider the application of the Petitioner's institution for grant of recognition for the sessions 2003-2004 and 2004-2005, without insisting on adoption of UGC/State Government pay scales for staff of ASPM.

This Court while admitting the writ petition by issuing rule on 9.9.2004 passed the following interim order:

Having regard to the urgency in the matter and that the students will suffer irreparable loss and injury if they are not allowed to appear in the B. Ed. Examination and eventually the writ petition succeeds, I am inclined to issue an

interim direction to the Gauhati University to allow the students of the Petitioner's institution to appear in the ensuing B. Ed. Examination scheduled to be held from 18.9.04. In this regard, necessary application etc. shall be accepted by the Gauhati University. However, having regard the stand of the University, the results of the students shall not be declared without leave of this Court.

However, vide order dated 8.4.05 passed in Misc. Case 893/05, this Court directed the Respondent No. 1 and 4 to publish the result of the students of the college. While issuing the aforesaid direction, this Court also made it clear that the Respondent No. 1 shall not issue any degree/certificate without obtaining leave of this Court.

Referring to the aforesaid orders of this Court, it is submitted by the learned Counsel for the Petitioner that, pursuant to court's order dated 8.4.05, the result of the students of ASPM have already been declared by the G.U. for the sessions 2003-04 but the degree certificate has not been issued.

5. In WP (C) No. 6331/04, prayer has been made for setting aside the decision of the Executive Council of G.U. taken on its meeting held on 3.7.04 and 14.8.04 debarring the Rangia Teachers Training College (College for short), Rangia from sending up students for the B. Ed. Examination 2004, as well as, order dated 5.9.03, refusing recognition of B.Ed. Course in the College, with a further prayer to allow the students of the college to appear in the ensuing B. Ed. Examination 2004 from the College.

The Petitioner's case in brief, is that the Petitioner is the Principal of Rangia Teachers Training College, Rangia, which was established in the year 1987 at Rangia, having its own land and building thereon. During this long period, the institution has been imparting training in teacher education, leading to Bachelor of Education Degree (B.Ed.). The Executive Council of the G.U. by its resolution dated 28.5.94, granted permission to the sponsoring body of the institution to start B.Ed. Course for the session 1991-1992 subject to the conditions mentioned therein. Accordingly, the college started functioning by fulfilling all those conditions. The institution had obtained affiliation from the G.U. for the session 1993-1994. Accordingly, the college started functioning, by fulfilling all the conditions. After coming into force of NCTE Act 1993, with effect from 10.07.1995, the college authority submitted application before the NCTE for according recognition of B.Ed. Course to the college, NCTE upon consideration of the application filed by the college, accorded one year provisional recognition w.e.f. academic year 2000-2001. Thereafter, a visiting team of ERC, NCTE visited the Petitioner's college and submitted its report to NCTE, but NCTE vide order dated 9.5.2001, refused to grant recognition to the Petitioner's institution for the reasons stated in the said order. However, upon consideration of the ground reality and the interest of the students, vide notification dated 7.8.2002, the G.U. allowed the Petitioner's institution to admit students to the B.Ed. Course for the session 2002-2003 only, within the permitted student intake, subject to obtaining recognition from NCTE. Thereafter the institution applied for "No objection

certificate" from the State Government and the State Government issued no objection certificate, after proper verification. Accordingly, the Petitioner's institution admitted students, who appeared in the BE J. Examination held in the year 2003, conducted by G U. In the meantime, a team of NCTE visited the college and submitted its report. On the basis of the said report, the NCTE vide its letter dated 4.7.03, directed the college to submit written representation u/s 14(3)(b) of Act 1993, which the college duly complied with. But NCTE vide its order dated 5.9.2003 had refused to recognise the B.Ed. Course of the college for the session 2003-2004. Against the order of refusal, the college submitted an appeal dated 30.12.2003 before the National Council, NCTE. The National Council remanded the matter to the Regional Committee, who decided vide its decision dated 17.3.2004 not to reconsider the earlier decision dated 5.9.2003. G.U. in the meanwhile allowed 19 Colleges to send students for B.Ed. Examination 2004, leaving aside the Petitioner's college. When the matter rested thus, the NCTE, on 9.7.04, accorded recognition to the college for the session 2004-2005.

Thus the Petitioner's institution has approached this Court with the aforesaid prayer and the said writ petition came up for consideration on 9.9.04. This Court while admitting the petition, by issuing Rule, passed an interim order to the following effect:

Having regard to the urgency in the matter and that the students will suffer irreparable loss and injury if they are not allowed to appear in the B.Ed. Examination and eventually the writ petition succeeds, I am inclined to issue an interim direction to the Gauhati University to allow the students of the Petitioner's institution to appear in the ensuing B.Ed. Examination scheduled to be held from 18.9.04. In this regard, necessary application etc. shall be accepted by the Gauhati University. However, having regard to the stand of the University, the results of the students shall not be declared without leave of this Court.

Pursuant to the order dated 9.9.04, the students of the Petitioner's college were allowed to appear in the B.Ed. Examination, but their results have been kept withheld. Therefore, the Petitioner had filed a miscellaneous application being Misc. Case No. 885/05 before this Court, wherein this Court vide order dated 8.4.05 directed the Respondent Nos. 1 and 4 to publish the result of the students, but making it clear that the Respondents shall not issue any degree/certificate without obtaining leave of this Court.

The learned Counsel for the Petitioner has submitted that result of the students of the Petitioner's college have already been declared, but no degree/certificate has been issued, in view of the order dated 8.4.05 passed in Misc. Case No. 885/05.

6. W.P. (C) No. 7415/04 has been filed by Asom Sikshak Prasikhan Mahavidyalaya (ASPM for short) who is also the Petitioner in W.P. (C) 6013/04. The instant writ petition has been filed for a direction to the G.U. Respondent No. 1 to allow the Petitioner's institution to admit the students to the B.Ed. Courses

for the session 2004-05, and for setting aside and quashing the conditions No. 2 & 3 of the impugned notification dated 27.8.04, issued by the Registrar, Gauhati University, whereby B.Ed. College under GU. have been required to obtain NCTE recognition before admitting students to the B.Ed. Course for the session 2004-05, thereby, debarring the Petitioner's institution from admitting students for the session 2004-05. The writ petition was moved before this Court on 30.9.04 and this Court while admitting the writ petition by issuing rule passed the following interim order:

Issue notice on the interim prayer. Pending consideration of the same the Petitioner institution may admit the students provisionally to the B.Ed. Course for the session 2004-2005. Such admission will be subject to further order to be passed.

A Misc. Case was consequently filed by the Petitioner being M.C. No. 2012/05 and after hearing learned Counsel appearing on behalf of the parties, on 1.7.05, this Court passed an order directing the G.U. to accept the application from the admitted students of the B.Ed. Course of the writ Petitioner's college i.e. Assam Sikshak Prasikhan Mahavidyalaya, Lankeswar, Guwahati for enrolment and allow the students to appear in the B.Ed. Examination for the session 2004-2005 including in Practice Teaching Practical Examination to be conducted by the GU., however, making it clear that the results shall not be pronounced without the permission of the Court. It was also provided that in the meantime inspection of college may be made.

Though the students of the Petitioner's institution were allowed to appear in the B.Ed. examination for the session 2004-2005 in compliance to this Court's order dated 1.7.05, their results have not been declared by the authority as per direction of this Court.

7. W.P. (C) No. 7607/04 has been filed with a prayer for setting aside the order dated 11.11.03 and 17.6.04 and also to allow the Petitioner's institution to admit the students for the sessions 2004-2005. The writ petition was moved before this Court on 6.10.04 and this Court while issuing notice of motion, in the interim, allowed the Petitioner to admit students for B.Ed. Course for the session 2004-05 with 100 intake, making it clear that the same shall be subject to the result of the case.

The Petitioner's case in brief, is that the West Guwahati College of Education (The College for short) was established in the year 1992. At present the college has been functioning from its own building. The Executive Council of the G.U. by its resolution dated 11.09.03 granted permission to the sponsoring body of the College to start B.Ed. Course for the session 1993-94, subject to certain conditions. Again, vide resolution dated 29.5.95, the Executive Council of G.U. granted permission to continue B.Ed. Classes for the sessions 1994-1995 and 1995-1996 and also for the session 1996-1997. The Petitioner's college deposited affiliation fees to the Gauhati University for the session 1996-1997.

After coming into force the NCTE Act 1993, the college was granted recognition for the year 1998-1999 vide order dated 6.3.1998 by the NCTE, ERC with intake, capacity of 70 students. Recognition was granted by NCTE for the sessions 2000-, 2001 and 2001-2002 also, subject to compliance of some conditions. The Gauhati University vide its notification dated 7.8.2002 issued by Registrar, Gauhati University notified the names of the affiliated/permitted B.Ed. Colleges allowing to admit students to the B.Ed. course for the session 2002-2003 and the names of the Petitioner college also finds place in the said notification. Thereafter, vide order dated 11.11.2003 the ERC, NCTE had withdrawn recognition of the Petitioner's college u/s 17(1) of the NCTE Act 1993, on the grounds mentioned therein. After receipt of the order dated 11.11.03, the Petitioner college submitted an appeal before the NCTE to review and withdraw the derecognition order. But the said appeal was rejected on 17.6.2004 on the grounds mentioned thereto. These two orders viz. order dated 11.11.03 and 17.6.04 are under challenge in this writ petition.

It is submitted that pursuant to the interim order dated 6.10.04 passed in the writ petition, the Petitioner's college had admitted students for B.Ed. course for the session 2004-2005 but had to file Misc. application being M.C. No. 1650/05, praying for a direction to the Respondent authority of Gauhati University to allow the students of B. Ed. Course of the Petitioner's college, to be enrolled and to appear in the ensuing B.Ed. examination for the session 2004-05. Vide order dated 20.6.2005, this Court passed an order in the aforesaid Misc. Case, directing the G.U. to accept the applications from the admitted students of the B.Ed. course of the Petitioner's college and allow the students to appear in the B.Ed. Examination for the session 2004-2005, including the Practice Teaching Practical Examination to be conducted by the Gauhati University, making it clear that, result shall not be pronounced without the permission of the court with a further order that in the meantime inspection of the college may be made. However, during the pendency of the case, a Misc. case being No. 1051/06 was filed, seeking a direction to announce the result of the students, who had appeared in the B.Ed. Examination, pursuant to the order dated 20.6.2005. The said Misc. case was directed to be heard alongwith the main writ petition.

8. In WP (C) No. 8213/04, the Petitioners are all private colleges imparting training in Teacher Education and they were given temporary permission/affiliation by the Gauhati University for B.Ed. Course. The Petitioner's colleges were not granted recognition by the NCTE for different reasons for the session 2004-05. The prayers of the Petitioners in the writ petition are:

- (i) To set aside and quash the conditions No. 2 and 3 of the Notification dated 27.8.04 issued by the Registrar, Gauhati University.
- (ii) Direction to the GU to allow the Petitioners to admit students to the B.Ed. Course for the session 2004-2005.
- (iii) Direction to the NCTE to grant recognition to the Petitioners.

(iv) Direction, to the NCTE to grant five years time to the Petitioners to fulfill all the conditions as per NCTE norms and standards for recognition and to grant conditional recognition to the Petitioners for the said five years.

This writ petition so filed by the Petitioners was moved on 26.10.04 before this Court and this Court while admitting the writ petition by issuing rule, passed an interim order, directing that pending consideration of the interim prayer, the Petitioners shall be permitted to admit the students in the B.Ed. Course for the session 2004-2005, which however, shall be subject to outcome of the writ petition.

The Petitioners thereafter filed Misc. Case No. 1919/05 for a direction to the Respondents to allow the admitted students of B.Ed. course for the session 2004-2005 of Petitioners No. 1, 2, 3 and 4 to enroll and appear in B.Ed. Examination 2005, including Practice Teaching Practical Examination, 2005 to be conducted by the Gauhati University and this Court after hearing the learned Counsel appearing for the parties, vide order dated 24.6.05, directed the G.U. to accept the applications from the admitted students of the B.Ed. Course in the colleges of the Petitioners No. 1,2,3 and 4 for enrollment and allow the students to appear in the B.Ed. Examination, 2005 for the session 2004-2005. The court however, made it clear that result in question shall not be pronounced without the permission of the court, with further direction that in the meantime the inspection of the college may be made.

However, the Petitioner filed another Misc. Case being No. 1139/06 for a direction to the G.U. to declare/pronounce the results of the students who have appeared from the colleges of the Petitioners No. 1, 2, 3 and 4 in the B.Ed. Examination, 2005. The said Misc. application is still pending.

It has been submitted that the NCTE has, in the meantime, granted recognition to the Petitioners Nos. 2 and 4 for B.Ed. Course for the session 2005-2006. It is also submitted by the learned Counsel that Petitioners Nos. 5 and 6 have already got relief and therefore, no order need be passed in favour of them.

9. In W.P. (C) No. 3169/06, the Petitioners are the students of the Teachers Training College, Mirza, Kamrup, have approached this Court separately, though the relief prayed are same as that of WP (C) No. 8213/04.

Limited prayer of the Petitioners in this case is for a direction to Respondent Nos. 1 and 2 to declare results of the candidates, who appeared in the B.Ed. Examination 2005 from the said college and also for direction to Respondent No. 3 to publish and communicate the result and report of the inspection held on 24.4.06. The Petitioners further prayed to extend the date for submission of application forms and fee for B.Ed. Examination 2006, as notified on 16.6.2006.

The Petitioners case is that pursuant to the courts order dated 24.6.05 passed in Misc. case 1919/05, in WP (C) No. 8213/04, the Petitioners had appeared in the examination but their results have not been declared. Hence the Petitioners have

filed the instant writ petition praying for a direction to the G.U. authority to declare their results of the B.Ed. Examination, 2005.

10. In W.P. (C) No. 5196/05, Gauhati University has been impleaded as Respondent No. 1 and an affidavit-in-opposition has been filed by the Respondent No. 1 stating therein that, Respondent No. 1 is only an examining body after coming into effect the NCTE Act, 1993. The Petitioners and the Respondent No. 1 are bound to follow the NCTE Act, Rules and guidelines that may be issued by the NCTE, Respondent Nos. 2 & 3 from time to time. It has also been categorically stated at paragraphs 4 and 5 in the affidavit that as the Respondent Nos. 2 & 3 have not granted recognition to the Petitioner's institution, for the period 2004-2005, the Respondent No. 1 cannot issue permission to the students for appearing in the B. Ed. course and therefore, asked the college to obtain recognition from Respondent Nos. 2 & 3, as provided under the provision of the Act, 1993 and therefore it has been urged that under the provisions of Act 1993, admission of students by the college and appearing in the B.Ed. Examination in any academic session, without prior recognition from the NCTE, is against the mandatory provisions of law stipulated in the Act, 1993.

11. In the affidavit-in-opposition filed by Respondent Nos. 2 and 3, the NCTE, in W.P. (C) 5196/05, relying upon the various provisions of the Act, 1993, it has been stated that the Respondent No. 1 which is the examining body under the Act 1993, by publishing notification time to time inter alia, notified that affiliated B.Ed. Colleges of Gauhati University without NCTE recognition, will have to obtain NCTE recognition before admitting students and therefore, in view of the aforesaid notification, admission of the students by the colleges and appearing in the B.Ed. examination without prior recognition from NCTE, is against the mandatory provisions of law. Respondent Nos. 2 and 3 have further contended that, an institution offering B.Ed. Course without obtaining recognition or permission, even if allowed to appear in the examination and consequently thereupon B.Ed. Degree/Certificate obtained, would not be treated as valid qualification u/s 17 of the Act 1993.

12. The stand taken in the affidavit-in-opposition, filed in W.P.(C) No. 5196/05, by Respondent No. 1, Gauhati University and Respondents No. 2 and 3, NCTE, are same in all the writ petitions. Therefore, this Court considered the affidavit-in-opposition in W.P. (C) No. 5196/05 while deciding the cases.

13. Heard the learned Counsel for the parties at length. Perused the materials on record and considered the facts pleaded and established. Considering the nature of claim and counter claim made by the parties the following points would emerge for decision of this Court.

(i) The Petitioner's institutions admittedly had admitted the students for the sessions 2003-2004 in W.P. (C) No. 6013/04 and W.P. (C) No. 6331/04, without obtaining recognition from ERC, NCTE. However, in W.P. (C) 6013/04, the court has been informed that NCTE has accorded recognition to the institution

subsequently for the session 2005-2006 and in W.P. (C) No. 6331/04, NCTE accorded recognition to the college for the session 2004-05.

(ii) The Gauhati University has refused to grant permission to the students for appearing in the B.Ed. Examination to be held in 2004 in case of W.P. (C) No. 6013/04 and W.P. (C) No. 6331/04 and for the year 2005 in all other cases.

(iii) The ERC, NCTE has not recognized the institution in W.P. (C) No. 5196/05 for the session 2004-05, though accorded recognition for the years 2003-04 and 2005-06.

In W.P. (C) No. 6013/04, NCTE accorded recognition to the institution for the session 2005-06.

In W.P. (C) No. 8213/04, recognition has been accorded to Petitioners No. 5 and 6 for the session 2004-05 and to Petitioners No. 2 and 4 for the session 2005-06.

rv) In absence of recognition by the ERC, NCTE for the year 2003-04 and 2004-05, as to whether the students can be allowed to appear in the examination including practical examination, even if, the students are allowed to appear in the examination and results are directed to be declared, whether the degree obtained by them will be valid in view of provision contained in Section 17(4) of the Act 1993.

14. While enacting the Act, 1993, the legislature in its wisdom has provided statutory power to the NCTE with the objective of the determination, maintenance, coordination of standard in laying down the norms and guidelines for various courses, permission/problems or innovation in the field of education and establishment of a suitable system for continuing education of teachers. The Act further seeks to empower the Council to make qualitative improvement in the system of teacher education by phasing out substandard institution and courses for teacher education. The aim and object of the Act empowered the NCTE to grant recognition to institutions for teacher education and permission to recognized institutions for new course or trainee in teacher education. The provisions under the Act are mandatory in nature and any violation of the provisions of the Act requires interference by the Courts.

15. Considering the aims of the Act, the pleadings made by the parties and the argument advanced, it is clear that the Petitioner's institutions were not recognized by NCTE for the academic session 2003-2004 in W.P. (C) 6013/04 and W.P. (C) No. 6331/04 and for the session 2004-2005 in all other writ petitions. However, the students of the Petitioner's institutions were allowed to appear in the examination including practical examinations. In view of the order passed by this Court earlier, as indicated above, the results of the examination has been announced, though degree certificates have been withheld in some cases, whereas in rests of the cases results have yet to be announced.

16. There is no dispute at the Bar that the provisions of the National Council for Teacher Education Act, 1993 is mandatory in nature. Therefore, as per Section 17

of the Act 1993, in absence of recognition from the NCTE, the B.Ed. Degree/ Certificates shall not be treated as a valid qualification for purposes of employment under the Central Government, and State Government or University or in any School, Colleges or other educational body aided by the Central Government or any State Government. For better appreciation Section 17 of the Act is quoted hereunder:

17. Contravention provisions of the Act and consequences thereof- (1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognized institution has contravened any of the provisions of this Act, or the rules, regulations orders made or issued thereunder, or any condition subject to which recognition under Sub-section (3) of Section 14 or permission under Sub-section (3) of Section 15 was granted, it may withdraw recognition of such recognized institution for reasons to be recorded in writing;

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under Sub-section (1)-

(a) Shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) Shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under Sub-section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under Sub-section (1), with effect from the end of the academic session next following the date of communication of the said order.

(4) If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under Sub-section (1), or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or University, or in any school, college or other educational body aided by the Central Government or any State Government.

Therefore, this Court has no hesitation to hold that the results of B.Ed. Examination and consequent thereupon the certificates issued shall not be treated as a valid qualification for all practical purposes.

17. In support of their submissions, learned Counsel appearing for the Petitioners have cited the following decisions:

1. Jagdish Pandey Vs. The Chancellor University of Bihar and Another,
2. AIR 1989 SC 183 Andhra Kesari Education Society v. Director of School Education and Ors.
3. Sanatan Gauda Vs. Berhampur University and others, .
4. Al-Karim Educational Trust and another Vs. State of Bihar and others, .

18. Mr. G.P. Bhowmik, learned Counsel appearing for NCTE, has relied upon the following decisions:

1. A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another, .
2. Krishena Kumar and Others Vs. Union of India and others, .
3. State of Tamil Nadu and Others Vs. St. Joseph Teachers Training Institute and Another, .
4. State of Punjab and others Vs. Surinder Kumar and others, .
5. State of Maharashtra Vs. Vikas Sahebrao Roundale and others, .
6. Guru Nanak Dev University Vs. Parminder Kr. Bansal and another, .
7. St. John's Teacher Training Institute (for Women), Madurai, Vs. State of Tamil Nadu and others, etc. etc.,
8. State of U.P. v. Visheshwar
9. C.B.S.E. and Another Vs. P. Sunil Kumar and Others,
10. L. Muthukumar and Another Vs. The State of Tamil Nadu and Others, .
11. AIR 2004 SC 2890 : Mehboob Dawood Shaik v. State of Maharashtra.

However, this Court do not intend to discuss the cases referred to by the parties in view of violation of mandatory provisions of the Act, 1993.

19. Therefore, this Court, considering the totality of the facts, directs the Gauhati University to announce the result of the students appeared in the B.Ed. Examination for the sessions 2003-2004 and 2004-2005 and also to issue certificates to the candidates within a period of four weeks from the date of receipt of the certified copy of this order. However, it is made clear that the issuance of certificate shall be subject to the provisions of Section 17(4) of the Act of 1993 as indicated above.

20. With the above observations the writ petitions stands disposed of there shall be no order as to costs.

21. It is also made clear that this judgment and order of this Court shall not be a precedent in future.