

GAHC010282052025



2026:GAU-AS:9614

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

**Case No. : WP(C)/234/2026**

MRS MALLIKA DEVI  
W/O MR. MANOMOHAN SARMA, RESIDENT OF HOUSE NO. 30, INIDRA  
GANDHI ROAD, SANTIPUR HILLSIDE EAST, P.O. AND P.S.-  
BHARALUMUKH, GUWAHATI - 781009, DISTRICT - KAMRUPM, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,  
DEPARTMENT OF SCHOOL EDUCATION (SECONDARY EDUCATION  
DEPARTMENT), ASSAM (CIVIL) SECRETARIAT, BLOCK - C, DISPUR,  
GUWAHATI - 781006, ASSAM.

2:THE DIRECTOR OF SECONDARY EDUCATION  
KAHILIPARA  
GUWAHATI - 781019  
ASSAM

3:THE DEPUTY DIRECTOR  
SECONDARY EDUCATION  
GUWAHATI - 781019  
ASSAM.

4:THE INSPECTOR OF SCHOOLS  
KAMRUP(M) DISTRICT CIRCLE  
PANBAZAR  
DISTRICT KAMRUP(M)  
GUWAHATI - 781001  
ASSAM.

5:MRS. SUBHALAKSHMI BAROOAH  
ASSISTANT TEACHER

T.C. GOVERNMENT GIRLS H.S. AND M.P. SCHOOL  
GUWAHATI - 781003  
DISTRICT - KAMRUP(M)  
ASSAM

**Advocate for the Petitioner** : MR. M SARMA, MR. R BORPATRA

**Advocate for the Respondent** : SC, SEC. EDU.,

Linked Case : WP(C)/3643/2025

MALLIKA DEVI  
W/O. MR. MANOMOHAN SARMA  
R/O. HOUSE NO. 30  
INDRIA GHANDI ROAD  
SANTIPUR HILLSIDE EAST  
P/O. AND P/S. BHARALUMUKH  
GUWAHATI-781009  
DIST. KAMRUP (M)  
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS.  
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF SCHOOL EDUCATION (SECONDARY EDUCATION  
DEPARTMENT)  
ASSAM (C) SECRETARIAT  
BLOCK-C  
DISPUR  
GUWAHATI-781006  
ASSAM.

2:THE DIRECTOR OF SECONDARY EDUCATION  
KAHILIPARA  
GUWAHATI-7810019  
ASSAM.

3:THE DEPUTY DIRECTOR  
SECONDARY EDUCATION  
GUWAHATI-781019  
ASSAM

4:THE INSPECTOR OF SCHOOLS  
KAMRUP (M)  
DISTRICT CIRCLE

PANBAZAR  
DIST. KAMRUP 9M0  
GUWAHATI-781001  
ASSAM.

5:SUBHALAKSHMI BAROOAH  
ASSISTANT TEACHER  
T.C. GOVT. GIRLS H.S. AND M.P. SCHOOL  
GUWAHATI-781003  
DIST. KAMRUP (M0  
ASSAM.

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Advocate for : MR P BHARDWAJ  
Advocate for : SC  
SEC. EDU. appearing for THE STATE OF ASSAM AND 4 ORS.

**B E F O R E**

**HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

|                                                                     |   |                |
|---------------------------------------------------------------------|---|----------------|
| For the Petitioner                                                  | : | Mr. M Sarma    |
| For the Respondent                                                  | : | Ms. H Terangpi |
| Date on which Judgment is reserved                                  | : | 06.05.2026     |
| Date of pronouncement of Judgment                                   | : | 13.07.2026     |
| Whether the pronouncement is of the operative part of the judgment? | : | NA             |
| Whether the full judgment has been pronounced?                      | : | Yes            |

**JUDGMENT AND ORDER (CAV)**

Heard Mr. M Sarma, learned counsel for the petitioner in the above noted two writ petitions and Ms. H Terangpi, learned Standing counsel, Secondary Education Department, appearing for the State respondents in the above noted two writ petitions. None has appeared for the respondent No. 5.

**2.** The above noted two writ petitions, with the consent of the parties, were taken up together for final consideration, inasmuch as, similar issues have arisen for consideration in the said two writ petitions.

**3.** The basic challenge made in the above noted two writ petitions is to an order dated 27.01.2023, issued by the Director of Secondary Education, Assam, entrusting the respondent No. 5, herein, with the charge of the post of Principal of T.C. Government Girls' H.S. & M.P. School, Guwahati. In WP(C) No. 234/2026, a further challenge is made to a hearing report, prepared by the Deputy Director, Secondary Education, Assam, in pursuance to a hearing held in the matter on 04.06.2025.

**4.** The facts in brief requisite for adjudication of the issues arising in the present writ petitions are noticed as under.

The petitioner, herein, was initially appointed under Regulation 3(f) of the Assam Public Service Commission (Limitation of Functions) Regulations, 1951, vide an order dated 02.01.1995 as a Subject Teacher in Assamese and was posted at Government Girls' H.S. School, Dhubri. On a recommendation made by the Assam Public Service Commission, the petitioner was appointed on regular basis, vide an order dated 02.03.2001. Thereafter, the State wise Draft Gradation List of Post Graduate Teachers, working in Government Higher

Secondary Schools was published vide an order dated 15.07.2021. In the said List, the name of the petitioner is placed at serial No. 68, whereas, the name of respondent No. 5 figures at serial No. 80 and her date of joining in the Post Graduate cadre of a Government Higher Secondary School has been reflected therein, as 11.03.1996. The petitioner was, thereafter, transferred to T.C. Government Girls' H.S. & M.P. School, Guwahati.

The incumbent in the post of Principal of T.C. Government Girls' H.S. & M.P. School, Guwahati, having retired from his services on reaching the age of superannuation, w.e.f. 31.01.2023, the petitioner being the senior most Post Graduate Teacher in the school, having all the requisite eligibility criteria, was hopeful of being permitted to hold the charge of the post of Principal on the same falling vacant. However, the Director of Secondary Education, Assam, vide an order dated 27.01.2023, proceeded to allow the respondent No. 5, to hold the charge of the post of Principal. In the said order dated 27.01.2023, it was highlighted that it was only the respondent No. 5, who had obtained her B.Ed. Degree, on being deputed for the said course by the authorities. It was further highlighted that the other teachers in the seniority list, who are senior to the respondent No. 5 and have B.Ed. qualification, could not produce necessary order/permission of the appointing authority for pursuing B.Ed. Course. Accordingly, invoking the provisions of Rule 13 of the Assam Civil Service (Conduct) Rules, 1965 (hereinafter, referred to as the Rules of 1965), the said teachers, including the petitioner, herein, were held to be ineligible to hold the charge of the post of Principal of the school.

The petitioner, being aggrieved, approached the Director of Secondary Education, Assam, praying for consideration of her case for holding the charge

of the post of Principal of the said school. The said representation preferred by the petitioner, not having evoked any response, the petitioner had approached this Court by way of instituting a writ petition, being WP(C) No. 3643/2025, assailing the said order dated 27.01.2023.

During the pendency of the said writ petition, being WP(C) No. 3643/2025, a hearing was scheduled on 04.06.2025, by the Deputy Director, Secondary Education, Assam, with regard to the grievance raised by the petitioner in her representation for holding the charge of the post of Principal of the school. Thereafter, on conclusion of the hearing on 04.06.2025, a hearing report was issued, wherein, the claim made by the petitioner for holding the charge of the post of Principal, came to be rejected. Being aggrieved, the petitioner has instituted WP(C) No. 234/2026.

**5.** At the outset, this Court would notice that notice issued upon the respondent No. 5, was found to have been delivered to her.

**6.** This Court vide order dated 28.04.2026, had fixed the matter on 04.05.2026 at 02:00 PM, for further hearing and had required the jurisdictional Inspector of Schools, to inform the respondent No. 5 of the pendency of the present writ petition in writing and had required the acknowledgment thereof, by the respondent No. 5 to be placed before the Court, on the next date of listing.

**7.** The Inspector of Schools, vide communication dated 02.05.2026, had informed the respondent No. 5 about the next date fixed in the present writ petition and the said communication was duly acknowledged by the respondent No. 5. However, when the matter was taken up for consideration on 06.05.2026,

there was no representation on behalf of the respondent No. 5. Accordingly, the matter was heard at length and the judgment came to be reserved.

**8.** Mr. Sarma, learned counsel for the petitioner, by reiterating the facts noticed hereinabove, has submitted that the B.Ed. Degree acquired by the petitioner, was so acquired after pursuing the said course from a recognized institution and the said degree cannot be invalidated by the respondent authorities only on the ground that she had not taken due permission for pursuing the said course from the departmental authorities.

**8.1** Mr. Sarma, learned counsel for the petitioner has submitted that one Bandana Thakuria is the senior most Post Graduate Teacher in the school. However, she does not possess a B.Ed. Degree and accordingly, the petitioner, being placed after said Bandana Thakuria in order of seniority in the said school, the petitioner, herein, is the senior most in the cadre of Post Graduate Teachers in the said school having all requisite qualifications and accordingly, was eligible for being promoted on regular basis to the post of Principal of the school, on a vacancy arising against the said post. Accordingly, it is submitted that it was the petitioner, who was required to be entrusted with the responsibility of holding the charge of the post in question, till the same is so filled up on regular basis.

**8.2** Mr. Sarma, learned counsel for the petitioner submits that even if it is held that the petitioner had obtained the B.Ed. Degree, without taking due permission from the departmental authorities for pursuing the said course, the same by itself cannot invalidate the otherwise valid degree obtained by the petitioner from a recognized University. He submits that till date, no departmental proceedings have been instituted against the petitioner for the purported violation of the provisions of Rule 13 of the Assam Civil Service

(Conduct) Rules, 1965.

**8.3** In support of his submissions, Mr. Sarma, has relied upon the decision of this Court in the case of *Tankeswar Nath Vs. State of Assam and Others* [order dated 18.12.2023 passed in WP(C) No. 5419/2023].

**9.** Per contra, Ms. Terangpi, learned Standing counsel, Secondary Education Department has submitted that the petitioner not having pursued her B.Ed. course after obtaining due permission from the departmental authorities, admittedly a violation of the provisions of Rule 13 of the Rules of 1965 had occasioned and accordingly, the said degree cannot be recognized for the purpose of conferring further service benefits upon the petitioner.

**9.1** Ms. Terangpi, learned Standing counsel, Secondary Education Department further submits that B.Ed. Degree being a mandatory qualification required to be acquired by an incumbent/teacher for being considered for promotion to the post of Principal of a Government Higher Secondary School, the B.Ed. Degree acquired by the petitioner, not being reckonable in the eye of law on account of the manner in which, the same was so acquired, the petitioner cannot be held to be a person eligible for being considered for regular promotion to the cadre of Principal of a Government Higher Secondary School and accordingly, she would not be entitled to be also permitted to hold the said post on in-charge basis.

**9.2** Ms. Terangpi, learned Standing counsel, Secondary Education Department, submits that the hearing report as issued by the Deputy Director, Secondary Education, Assam, has taken into account all the requisite factors and had thereafter, proceeded to draw a conclusion that the petitioner cannot



be placed as the In-charge Principal of the school in question.

**10.** I have heard the learned counsel for the parties and also perused the materials available on record.

**11.** From the materials available on record, it is evident that the petitioner in the cadre of Post Graduate Teachers of a Government Higher Secondary School, is placed much above the respondent No. 5, herein. In the school also, the petitioner is senior to the respondent No. 5. Accordingly, by following the procedure mandated, it is the qualified senior most teacher working in the feeder cadre, who is to be considered for being entrusted with the charge of the post of Principal on a vacancy arising in the said post. However, on a vacancy arising in the school in question against the post of Principal, therein, on the incumbent holding the post retiring from his services on reaching the age of superannuation, the Director of Secondary Education, Assam, vide an order dated 27.01.2023, proceeded to allow the respondent No. 5, herein, to hold the charge of the post of Principal of the school, along with financial power, until further orders, w.e.f. 01.02.2023.

**12.** In the said order dated 27.01.2023, the Director for the purpose of permitting the respondent No. 5, herein, to hold the charge of the post of Principal of the school in question, had observed that it was only the respondent No. 5, who had obtained her B.Ed. degree with departmental permission, inasmuch as, she had obtained such degree on being deputed to undergo the said course. It was further observed that the other teachers in the seniority list, who are senior to the respondent No. 5 and have B.Ed. qualification, could not produce necessary order/permission of the appointing authority for pursuing their respective B.Ed. degree courses. Accordingly, by referring to the provisions

of Rule 13 of the Rules of 1965, the case of the other persons senior to the respondent No. 5 in the school in question, came to be rejected.

**13.** The denial to the petitioner of an opportunity to hold the charge of the post of Principal of the school in question, being so made with reference to the provisions of Rule 13 of the Rules of 1965, the same being relevant, is extracted hereinbelow:

***“13. Prosecution of studies by Government servants in educational institutions. - No Government servant while in Government service shall join or attend any educational institution for the purpose of preparing himself for or shall appear at any examination of a recognized-Board or University without obtaining previous permission from the appointing authority:***

***Provided that the appointing authority may refuse such permission in the interest of the public service on consideration that such joining or attending any educational institution or appearing at any examination may create dislocation of work or stand in the way of the efficient discharge of his duties by the Government servant concerned. Permission of study leave or any other kind of leave granted for the purpose of joining or attending any educational institution shall be subject to the condition that the Government servant shall not seek election to or hold any electist office in Students' Union or other Association of Student's except Association formed for purely literary, academic or athletic pursuits.”***

**14.** The provisions of Rule 13 of the Rules of 1965 mandate that no Government employee while in service, shall join or shall attend any educational institution for preparing himself or shall appear at an examination of a

recognized Board or University without obtaining previous permission from the appointing authority.

The provisions of Rule 13 mandate that prior permission shall be obtained by a Government employee for prosecuting any course of study. The violation of Rule 13 would amount to a misconduct for which the employer may draw a disciplinary proceeding against the government employee. The provisions of Rule 13 of the Rules of 1965 cannot be invoked to invalidate any degree acquired by a Government employee, the course of study for which, the Government employee had prosecuted from a recognized institution, on the ground that it was so pursued without previous permission from the authorities.

**15.** This Court in the case of *Tankeswar Nath* (supra), on a consideration of the issue as arising in the present writ petitions, had drawn the following conclusions:

*“6. The said issue is no longer res-integra and this Court, vide order, dated 28.09.2023, passed in IA(c)2615/2023 [**Smt. Mouchumi Saharia v. Smriti Rekha Kalita & 3 ors.**] had held that if a Degree had been obtained without prior permission of the appointing authority, the same would be a misconduct under Rule 13 of the Rules of 1965 and it being a misconduct, the relevant proceedings of law applicable against the candidate, would be a proceeding against such candidate under the Assam Services(Discipline and Appeal) Rules, 1964, but the same by itself cannot invalidate the otherwise valid degree obtained from the respective Universities and further, that the Degree obtained from a University is governed by Section 22 of the University Grants Commission Act, 1956.*

7. On application of the decision of this Court in the case of **Mouchumi Saharia** (supra); to the issues arising in the present case, it is clear that the petitioner having been validly granted a Masters Degree in Assamese and the said Degree having been obtained from an institution recognized by the University Grants Commission, the respondent authorities do not have the jurisdiction and authority to invalidate the said Degree obtained by the petitioner and such invalidation cannot be done even impliedly.

The effect of the denial of the benefits of holding the charge of in-charge Principal of the said school to the petitioner in spite of being the senior-most Teacher of the school, amounts to an invalidation of the Degree obtained by the petitioner in Krishna Kanta Handique State Open University, which is impermissible.

8. Accordingly, the order, dated 30.03.2023, having been issued only on the ground that the petitioner was not eligible to hold the charge of the post of Principal, Sarthebari Higher Secondary School, Sarthebari, on account of he having obtained his M.A. Degree without prior permission from the competent authorities for undergoing such a course; stands interfered with.

9. The M.A. Degree acquired by the petitioner having been so acquired from a recognized University; the said Degree is otherwise valid and acceptable in law and accordingly, the petitioner having fulfilled the eligibility criteria as mandated for recruitment to the post of principal of the school in question, under the provisions of Rule 12(3) of the said Rules of 2018; a legal right has accrued to the petitioner to hold the charge of the post of Principal, Sarthebari Higher Secondary School,

*Sarthebari."*

**16.** Applying the decision of this Court in the case of *Tankeswar Nath* (supra), to the facts of the present writ petitions, this Court finds that the petitioner, herein, had acquired her B.Ed. Degree from a recognized University. The said degree is otherwise valid and acceptable in law and accordingly, the petitioner is found to have fulfilled the eligibility criteria as mandated in the matter for the purpose of recruitment to the post of Principal in a Government Higher Secondary School. Accordingly, a legal right is found to have accrued to the petitioner to hold the charge of the post of Principal of T.C. Government Girls' H.S. & M.P. School, Guwahati.

**17.** This Court notices that in the above noted writ petitions, it has not been brought on record that any departmental proceeding stood initiated against the petitioner as of 27.01.2023, basing on an allegation of having committed a misconduct by violating the provisions of Rule 13 of the Assam Civil Service (Conduct) Rules, 1965.

**18.** In view of the above discussions, the hearing report prepared by the Deputy Director, Secondary Education, Assam, in pursuance to the hearing held on 04.06.2025 is also held to not mandate acceptance.

**19.** Accordingly, this Court is of the considered view that it is the decision of this Court in the case of *Tankeswar Nath* (supra) that would be applicable in the present writ petition. Accordingly, it is held that the petitioner has a legal right to hold the charge of the post of Principal of the school in question, till the same is so filled up on regular basis. Consequently, the order dated 27.01.2023, issued by the Director of Secondary Education, Assam, allowing the respondent

No. 5, to hold the charge of the post of Principal of the school in question, stands set aside. The hearing report prepared by the Deputy Director, Secondary Education, Assam, in pursuance to the hearing held on 04.06.2025, also stands set aside.

**20.** This Court having interfered with the order dated 27.01.2023, the matter stands remanded back to the Director of Secondary Education, Assam, who shall now pass appropriate orders, allowing the petitioner to hold the charge of the post of Principal of T.C. Government Girls' H.S. & M.P. School, Guwahati. The Director of Secondary Education, Assam, shall pass appropriate orders in compliance with the directions passed by this Court, hereinabove, within a period of 15 (fifteen) days from the date of receipt of a certified copy of this order from the petitioner, herein.

**21.** With the above observations and directions, the writ petitions, being WP(C) No. 234/2026 and WP(C) No. 3643/2025 stand disposed of.

**JUDGE**

**Comparing Assistant**

Pratibha  
Baruah