

GAHC010137122024



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

**Case No. : WP(C)/3475/2024**

NITISH BHARDWAJ  
S/O- DEBEN BORDOLOI  
R/O- PARLAY RESIDENCY  
FLAT NO. B5A  
H.S. COMPLEX  
JAYANAGAR  
P.O. KHANAPARA  
DIST. KAMRUP(M)  
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY  
DEPARTMENT OF HIGHER EDUCATION  
GOVT. OF ASSAM  
DISPUR  
GUWAHATI-781006.

2:THE DIRECTOR OF TECHNICAL EDUCATION  
KAHILIPARA  
GUWAHATI-781019.

3:THE ASSAM PUBLIC SERVICE COMMISSION  
REPRESENTED BY ITS CHAIRMAN  
JAWAHAR NAGAR  
GUWAHATI-781022  
ASSAM

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Advocate for : MR S BORTHAKUR  
Advocate for : SC  
APSC appearing for THE STATE OF ASSAM AND 2 ORS

Linked Case : WP(C)/3356/2024

DR. PLABAN BORA AND 2 ORS  
S/O- DHANESWAR BORA

R/O- AHOM GAON

P.O- SAWKUCHI

P.S- GORCHUK  
DIST- KAMRUP (M)  
ASSAM

2: DR. MINAKSHI GOHAIN

D/O- DILIP GOHAIN

R/O- MOHANBARI BAZAR TINIALI

P.O- MOHANBARI A/F

P.S- LAHOWAL  
DIST- DIBRUGARH  
ASSAM

3: ANKUR DAS  
S/O- LATE BIRENDRA NATH DAS

R/O- CHANDRAPUR  
WARD NO-8

P.O AND P.S- BARPETA ROAD

DIST- BARPETA  
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY  
TO THE GOVT. OF ASSAM  
DEPARTMENT OF EDUCATION (HIGHER) DISPUR  
GUWAHATI KAMRUP (M)  
ASSAM

PIN NO- 781006

2:THE DIRECTOR OF TECHNICAL EDUCATION  
KAHILIPARA  
GUWAHATI  
KAMRUP (METRO)  
ASSAM  
PIN NO.- 781019

3:THE ASSAM PUBLIC SERVICE COMMISSION (APSC)  
REPRESENTED BY ITS CHAIRMAN  
JAWAHARNAGAR  
KHANAPARA  
GUWAHATI-22  
KAMRUP (M)  
ASSAM

4:ALL INDIA COUNCIL FOR TECHNICAL EDUCATION (AICTE)  
REP. BY ITS MEMBER SECRETARY  
NELSON MANDELA MARG  
VASANT KURI  
NEW DELHI-67

5:TEZPUR UNIVERSITY  
REP. BY THE REGISTRAR OF TEZPUR UNIVERSITY

P.O- NAPAM  
DIST- SONITPUR  
ASSAM  
PIN-784028

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Advocate for : MR S BORTHAKUR  
Advocate for : SC  
HIGHER EDU appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/3346/2024

NAMITA BORUAH AND ANR  
D/O- BASANTA BORUAH  
R/O- HOSPITAL ROAD  
TEOK  
P.O. AND P.S. TEOK  
DIST. JORHAT  
ASSAM

2: PARTHA PRATIM PAUL  
S/O- PRADIP KUMAR PAUL  
R/O- HOUSE NO. 27  
ITKHOLA SUKHODAPALLY  
SILCHAR  
DIST. CACHAR  
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY  
DEPARTMENT OF HIGHER EDUCATION  
GOVT. OF ASSAM  
DISPUR  
GUWAHATI-781006.

2:THE DIRECTOR OF TECHNICAL EDUCATION  
KAHILIPARA  
GHY-781019.

3:THE ASSAM PUBLIC SERVICE COMMISSION  
REPRESENTED BY ITS CHAIRMAN  
JAWAHAR NAGAR  
GHY-781022  
ASSAM

4:ALL INDIA COUNCIL FOR TECHNICAL EDUCATION  
REPRESENTED BY ITS MEMBER SECRETARY  
NELSON MANDELA MARG  
VASANT KURI  
NEW DELHI-110067.

5:NATIONAL INSTITUTE OF TECHNOLOGY  
SILCHAR  
REP. BY ITS DIRECTOR  
NATIONAL INSTITUTE OF TECHNOLOGY  
SILCHAR  
CACHAR  
ASSAM  
PIN- 788010.

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Advocate for : MR S BORTHAKUR



Mr. P. P. Dutta, SC, APSC.  
Mr. S. P. Choudhury, SC, NIT.

**BEFORE**  
**HON'BLE MR. JUSTICE SUMAN SHYAM**

Date of hearing : **29.10.2024.**

Date of judgment : **29.10.2024.**

**JUDGMENT & ORDER (Oral)**

Heard Mr. S. Borthakur, learned counsel for the writ petitioners in WP(C) No.3346/2024 and WP(C) No.3475/2024; Mr. N. N. B. Choudhury, learned counsel for the writ petitioners in WP(C) No.3356/2024 and Mr. B. P. Borah, learned counsel for the writ petitioner in WP(C) No.3525/2024. Also heard Mr. P. P. Dutta, learned Standing Counsel, Assam Public Service Commission appearing for the respondents in all these case. Mr. D. Upamanyu, learned Standing Counsel, Higher Education Department, Assam; Mr. K. P. Pathak, learned Standing Counsel, AICTE and Mr. S. P. Choudhury, learned Standing Counsel, NIT are also present.

2. Since common questions of law and facts are involved in all these four writ petitions, hence, the same are being taken up for disposal by this common order.

3. The facts of the case, in a nutshell, are that on 25.05.2017 the Assam Public Service Commission (APSC), through its Deputy Secretary, had issued an advertisement notice, bearing No.05/2017 dated 25.05.2017, inviting applications for filling up of a number of posts in the State Engineering Colleges and Polytechnics of

Assam coming under the Higher Education (Tech) Department. The posts so advertised included 66 no. of posts of Assistant Professor (Technical) in 9 different subjects in the Engineering Colleges of Assam. In terms of the advertisement dated 25.05.2017, the writ petitioners in these four writ petitions had applied for recruitment against those 66 posts of Assistant Professor in the Engineering Colleges of Assam. After the screening test was held to shortlist the candidates, a writ petition being WP(C) No.6005/2021 was instituted before this Court by some candidates *inter-alia* alleging that some of the candidates who did not possess the requisite qualifications were allowed to participate in the selection process in a manner which was not in accordance with the rules. Taking note of the plea raised by the petitioners in WP(C) No.6005/2021 the learned Single Judge had passed an order dated 12.11.2021 permitting the APSC to proceed with the selection process but restrained it from declaring the results without the leave of the Court. The APSC was permitted to proceed after proper verification of the candidature of the respective candidates pertaining to the department for which they had applied for before allowing them to participate in the selection process. The APSC had accordingly, constituted an Expert Committee so as to verify the qualification of the candidates who had applied for these posts and thereafter, as per the recommendation of the Expert Committee dated 17.11.2021, the list of eligible candidates were published which included the names of the writ petitioners. The said list was again put to challenge by filing an interlocutory application in WP(C) No.6005/2021 as a result of which, the matter did not proceed further. It appears that this Court had issued a further direction to the APSC to once again verify the candidature of all the eligible candidates. Thereafter,

on 16.05.2024, an order was passed by this Court in WP(C) No.6005/2021 laying down certain guidelines so as to take the selection process to its logical conclusion. The operative part of the order dated 16.05.2024 is reproduced herein below for ready reference :-

*“36. In view of the conclusions reached herein above; this Court is of the considered view that the stalemate as continuing with regard to the selection process against the posts of Assistant Professor(Technical) need not be permitted to be continued any further and the petitioners having been found to be ineligible for being called for the viva voce/interview segment of the selection process, and no further material coming on record to indicate the existence of any further illegality in the said selection process; this Court passes the following directions:*

*(i). The Assam Public Service Commission(APSC) authorities would now proceed to publish the list of the qualified candidates against the posts of Assistant Professor(Technical) as short-listed by the Expert Committee, in pursuance of the directions passed in the present proceeding by this Court by its earlier orders, and thereafter, proceed with the matter and hold viva voce/interview for such short-listed candidates strictly in accordance with the procedure as mandated in the matter.*

*(ii). On conclusion of the said viva voce/interview segment of the selection process; the Assam Public Service Commission(APSC) authorities shall duly publish the select list and recommend the names of the candidates now found eligible for appointment against the posts of Assistant Professor(Technical) as advertised vide the Advertisement, dated 25.05.2017, to the Government for further necessary action in the matter.*

*(iii). The above exercise as now required to be carried-out in terms of the directions passed by this Court herein above, shall be so initiated and*

*completed within a period of 2(two) months from the date of receipt of a certified copy of this order."*

4. In terms of the order dated 16.05.2024, the APSC had on 27.06.2024, prepared a list of candidates for interview. However, the names of the writ petitioners were not included in the aforesaid list of candidates short-listed for interview. As such, the writ petitioners had approached this Court by filing the present batch of writ petitions wherein, interim orders were passed provisionally permitting them to participate in the interview process on an assumption that they were possessing the requisite educational qualifications for the posts so applied for. Accordingly, all the writ petitioners had appeared before the interview board.

5. In the meantime, during the pendency of these Writ Petitions, on 07.10.2024 the Government of Assam had published a notification pertaining to the equivalence of various courses for the purpose of recruitment in any department/board/organization/committee under the Government of Assam. As per the notification dated 07.10.2024, it is now clear that the writ petitioners herein did possess the equivalent qualification for being recruited in the post of Assistant Professor (Technical) as per the advertisement notice dated 25.05.2017.

6. Mr. B. P. Borah, learned counsel for the petitioners submits that the notification dated 07.10.2024 is in consonance with the notification dated 28.04.2017 issued by All India Council for Technical Education (AICTE) which is the final authority in the country for determining equivalence of courses. Thus, it is apparent from the materials brought to the notice of the Court that not only has the AICTE clarified the matter even before the date of issuance of the advertisement notice dated 25.05.2017

according to which, the writ petitioners did possess equivalent qualification of postgraduate degree i.e. masters degree in the relevant subjects but the said position has been affirmed even by the State of Assam by issuing the notification dated 07.10.2024. If that be so, there can be no doubt about the fact that all the writ petitioners did possess the requisite qualification and therefore, could not have been debarred from appearing in the interview process based on their merit position, emerging from the screening test.

7. Mr. Dutta, learned Standing Counsel, APSC has fairly submitted that the writ petitioners who have got selected will be entitled to be appointed. Mr. Dutta has, however, added that the relief granted by this Court at this stage be confined only to these petitioners who have approached this Court by filing the writ petitions and subject to their ultimate merit position in the final select list. Mr. Dutta has also clarified that out of the total number of writ petitioners one petitioner in WP(C) No.3356/2024 viz., Dr. Plaban Bora; both the writ petitioners in WP(C) No.3366/2024 viz., Smt. Namita Boruah and Sri Partha Pratim Paul; the sole writ petitioner in WP(C) No.3475/2024 viz., Sri Nitish Bharadwaj (in one subject i.e. Mechanical Engineering) and the sole writ petitioner in WP(C) No.3525/2024 viz., Sri Biswajit Shyam have passed in the final interview and therefore, would be eligible for being appointed. The learned counsel for the writ petitioners have also gracefully agreed to the said submission.

8. In view of the above, these writ petitions stand disposed of by granting leave to the APSC to take appropriate steps for declaration of the results of the writ petitioners and make recommendation, as per the merit position of the selected

candidates, to the appointing authorities. The aforesaid exercise be carried out and completed as expeditiously as possible, preferably within a period of 30 days from the date of receipt of a certified copy of this order.

With the above observation, these writ petitions stand disposed of.

**JUDGE**

*T U Choudhury/Sr.PS*

**Comparing Assistant**