

GAHC010002142018



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

Case No. : WP(C)/79/2018

MANASH CHETIA
S/O. SRI HARINATH CHETIA, PERMANENT ADDRESS- HAHCHARA NA-PAM
CHETIA GAON, P.O. SINGHA DOWAR, DIST. SIBSAGAR, ASSAM. PIN-785701

2: DARINA CHAKRABORTY
D/O. AMARENDRA CHAKRABORTY
R/O. AMBIKAGIRI NAGAR
P.O. ZOO ROAD
GUWAHATI-21
DIST. KAMRUP (M)
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI-6.

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM

DEPARTMENT OF HIGHER EDUCATION (TECHNICAL)
DISPUR
GUWAHATI-6.

3:THE DIRECTOR OF TECHNICAL EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE STATE COUNCIL OF TECHNICAL EDUCATION
ASSAM.
REPRESENTED BY ITS SECRETARY
C/O. DIRECTORATE OF TECHNICAL EDUCATION
ASSAM

KAHILIPARA
GUWAHATI-19.

5:THE CHAIRMAN
ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

7TH FLOOR
CHANDERLACAK BUILDING
JANAPATH
NEW DELHI-110001

6:THE CONTROLLER OF EXAMINATION

C/O. DIRECTORATE OF TECHNICAL EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

7:ATUL BORA
EX. DIRECTOR OF TECHNICAL EDUCATION
ASSAM
C/O. ASSAM ENGINEERING COLLEGE
JALUKBARI
GUWAHATI-13.

8:MADHUMITA KALITA
THE DIRECTOR OF EXAMINATION
SCTE
C/O. DIRECTOR OF TECHNICAL EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

Advocate for the Petitioner : MR. A R SIKDAR

Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

22-02-2023

Heard Mr. A.R. Sikdar, learned counsel for the petitioners and Ms. D.D. Barman, learned Government Advocate, Assam for the respondent No. 1. Also heard Mr. S. Das, learned Standing

counsel, Higher Education Department, Assam for the respondent Nos. 2 to 4.

2. The contention of the petitioners is that the Director of Technical Education, Assam by a Notification under Memo No. SCTE 15/2009/3034-3059 dated 21.09.2017 brought into force certain agendas in the examination system with regard to the examination of the State Technical Education Institutes pertaining to the Diploma of different branches of Engineering offered by it under the State Council of Technical Education (SCTE).

3. At the time of filing this writ petition on 04.01.2018, the petitioner No. 1 was a 5th Semester student of Electrical Engineering Branch of Nagaon Polytechnic Institute whereas the petitioner No. 2 was an outgoing student of Computer Engineering under Girls Polytechnic, Bamunimaidan, Guwahati. However, the petitioner No. 2 had back in her 4th Semester Examination in "Data Structure using C", therefore, she claimed herself to be a student of said Girls Polytechnic Institute.

4. The petitioners contended that the New Evaluation Examination Scheme introduced by the said Notification dated 21.09.2017, noted above (Annexure-1 to this petition) is not in conformity with the Model Curriculum for Post Secondary School Certificate (SSC) Programme in Diploma in Mechanical Engineering, 2011 formulated by the All India Council for Technical Education (AICTE).

5. As per the said Notification dated 21.09.2017 issued by the Director of Technical Education, a student is required to secure 30 marks out of 100 marks (70 marks in theory and 30 marks in practical) whereas, as per the old system, a student of 1st and 2nd Semesters Examination is required to secure the minimum pass marks both in theory, practical & sessional separately i.e., 21 marks out of 70 marks in theory and 9 marks out of 30 marks in sessional and that in 3rd, 4th, 5th and 6th semester examinations, a student is required to secure 28 marks out of 70 in theory, and 15 marks out of 30 in sessional.

6. The petitioners submitted that pursuant to the said Notification dated 21.09.2017, noted above, a student of 1st and 2nd Semester examinations shall be successful in examination if the candidate secures a total 30 marks out of 100 without securing any pass marks in each component of (i) theory and (ii) sessional or practical separately.

7. As such, the petitioners praying amongst others for direction to the respondent authorities to (i) set aside and quash the impugned Notification dated 21.09.2017 issued by the Director of Technical Education, Assam introducing new examination evaluation system in Polytechnics of Assam; (ii)

restrain the Controller of Examination to declare all the results of further semester examination of Polytechnics in Assam following the new examination evaluation system as per course curriculum or course structures prepared in terms of the new examination evaluation system; (iii) set aside and cancel the re-declaration of results of all the Polytechnic Institutes of Assam holding the same as illegal, arbitrary and beyond settled law of the land, (iv) constitute a full-fledged body of the SCTE in Assam independent of Office of the Director of Technical Education, Assam to look after the academic affairs of the Polytechnic Institutes of Assam like CBSE, SEBA and AHSEC etc. and (v) punish the erring officers involving willful acts in committing illegalities relating to misadministration and misdirecting the academic affairs of the Polytechnic Institutes in Assam and after perusal of the records, hearing the parties and after showing cause or causes if any, make the Rule absolute granting adequate relief.

8. The Director of Technical Education (DTE), Assam, respondent No. 3 filed its affidavit in the matter on 19.01.2018 clarifying that under the New Evaluation Scheme notified on 21.09.2017, a student is required to pass each component of all the examinations i.e., theory and practical separately.

9. In its said affidavit, the DTE, Assam categorically stated that the said Notification dated 21.09.2017 notifying the New Examination Evaluation Scheme for Polytechnic Institutes of Assam specified a holistic student centric scheme based on the principles of continuous and comprehensive evaluation and grading system which is advance, transparent, non-arbitrary and internationally accepted evaluation scheme so as to encourage classroom participation, competitive spirit among the students, closer interaction between teachers and students, transparency, accountability and increased compliance with the AICTE norms, which shall also increase the chances of placement by recruiting agencies both domestic as well as foreign companies.

10. In the said affidavit, the DTE, Assam also categorically stated that under the New Examination Evaluation Scheme "Theory" is comprised of three components i.e., (i) Teachers Assessment (TA) on attendance, discipline, punctuality, class participation and class/group discussion, (ii) Home Assignments (HA) which includes poster presentations, questionnaires and surprise quizzes and (ii) End Semester Examination (ESE) and that out of total 100 marks in theory, 10 marks for TA, 20 marks for HA and 70 marks for ESE, a student has to pass in all three components separately. The DTE, Assam further stated that the "Practical" is comprised of Practical Assessment i.e., internal assessment and Practical Test i.e. external assessment on a 50:50 basis normally. Practical Assessment (PA) will

be based on the performance of the student in regular practical works in the laboratory and workshop/practical reports/project reports/lab files/filed visit reports/poster presentations of lab work etc. by continuous internal assessment by the practical teacher. Practical Test (PT) will be based on final practical examination and viva-voce by external assessment. In practical paper also, a student has to pass PA and PT separately.

11. The DTE, Assam in its said affidavit also stated that the New Examination Evaluation Scheme notified on 21.09.2017 is a part of Comprehensive Reform Agenda that have been undertaken as a collective effort of whole of the Institutions in presence of all Principals, Senior Teachers, representatives of Students of all Polytechnics, Secretary of SCTE and Principal Secretary of Technical Education and the same is based on a shared vision where the New Evaluation Scheme is to be understood as a package and as a part of the Comprehensive Reform Agenda for State Polytechnics for improving quality as well as employability and that all National Board accredited institutions of the country including the National Institutes of Technologies and the Indian Institute of Technologies are following such a continuous evaluation system.

12. It is further clarified in the said affidavit that the Technical Boards or Councils/Universities of different States are following different schemes of evaluation which are different from the scheme of evaluation given in the model curriculum of the AICTE. Therefore, a State can adopt its own evaluation system and approval of the AICTE is not required for such purposes and the affiliating State Boards/Universities are the competent authority in that regard.

13. The respondent authorities in the Technical Education Department however denied that the New Examination Evaluation Scheme notified on 21.09.2017 is not against the prescribed model curriculum of AICTE and all India Technical Boards and the course structure has not been changed in the New Evaluation Scheme but only the reforms have been made in evaluation marks based on the principles of continuous and comprehensive evaluation and grading system so as to encourage classroom participation, competitive spirit among the students, closer interaction between teachers and students, transparency, accountability etc.

14. As the authorities in the Technical Education Department of the State came to know that the young Polytechnic students have been misguided regarding the said New Evaluation Scheme for Polytechnics issued on 21.09.2017, the DTE, Assam issued a communication vide No. SCTE-15/2009/2333-35 dated 25.10.2017 to all the Principals of the State Polytechnic Institutes regarding the New Evaluation System as a part of comprehensive Reform Agenda for State Polytechnics

clarifying that there is no such provisions of obtaining only 30 marks out of 100 marks but a student of the Polytechnic is required to pass both theory and practical examinations separately and that the minimum pass marks will not dilute the relative quality of other performing students where the minimum pass marks may be reviewed from time to time with activating the all other measures as a package for a period. The said communication dated 25.10.2017 has also been annexed to the said affidavit of the DTE, Assam.

15. In that regard, in the said affidavit of the DTE, Assam, it is clarified that the New Evaluation Scheme (under comprehensive Reform Agenda) issued by the State Council for Technical Education, Assam as well as the theory marks pattern, practical examination marks and assessment marks relative grading system/scheme, sample for calculation of semester grade point average have been annexed wherein it was clearly mentioned that a student has to pass both the theory as well as the practical examination.

16. On being enquired, it is found that the petitioners have failed to place before the Court as to why the State Council of Technical Education, Assam is required to adopt the said Model Curriculum for Post SSC Programme in Diploma in Engineering, 2011 issued by the AICTE that was allegedly framed under Clause 10 (2) of the All India Council for Technical Education Act, 1987 and that they have also failed to place any such regulation framed under Section 10 (i) of the AICTE that is to be followed by the State Council of Technical Education by the respective States.

17. The petitioners have not filed their reply/re-joinder to the affidavit of the Director of Technical Education, Assam controverting the points established by the State Council of Technical Education, Assam.

18. Though the petitioners reiterated their prayers to constitute a full-fledged body of the State Council of Technical Education, Assam independent of Office of the Director of Technical Education, Assam to look after the academic affairs of the Polytechnic Institutes of Assam like CBSE, SEBA and AHSEC etc., the Court is of the view that no such direction can be issued to the State Government in exercise of the power conferred under Article 226 of the Constitution of India who have an independent Office of the Director of Technical Education, Assam to look after the academic affairs of the Polytechnic Institutes of Assam which shall amount to interfering with the administration of the State Government. Further, the petitioners failed to controvert the issues established by the Director of Technical Education, Assam in its affidavit.

19. In view of the above, this writ petition, being devoid of merit, stands rejected.

20. The interim order passed earlier on 07.02.2018 observing that any result to be declared, shall be subject to the result of this petition, is hereby recalled/stands vacated.

JUDGE

Comparing Assistant