GAHC010102002023

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

Case No. : WP(C)/2611/2023

KALYAN DUTTA
SON OF LATE PUNYESWAR DUTTA,
RESIDENT OF VILLAGE UJANI JALBHARI,
POST OFFICE- JALBHARI,
POLICE STATION- JALBHARI,
DISTRICT- LAKHIMPUR, ASSAM,
PIN- 787055.

VERSUS

THE DIBRUGARH UNIVERSITY AND 5 ORS.
DIBRUGARH,
REPRESENTED BY ITS REGISTRAR,
DISTRICT- DIBRUGARH, ASSAM,
PIN- 786004.

2:THE VICE CHANCELLOR
DIBRUGARH UNIVERSITY
DIBRUGARH

DISTRICT- DIBRUGARH
ASSAM

PIN- 786004.

3:THE REGISTRAR
DIBRUGARH UNIVERSITY
DIBRUGARH

DISTRICT- DIBRUGARH
ASSAM

PIN- 786004.

4:THE ANTI-RAGGING COMMITTEE
DIBRUGARH UNIVERSITY
DIBRUGARH

DISTRICT- DIBRUGARH
ASSAM

REPRESENTED BY ITS CHAIRMAN

PIN- 786004.

5:THE CHAIRMAN
ANTI-RAGGING COMMITTEE
DIBRUGARH UNIVERSITY
DIBRUGARH

DISTRICT- DIBRUGARH
ASSAM

PIN- 786004.

6:THE CONTROLLER OF EXAMINATIONS
DIBRUGARH UNIVERSITY
DIBRUGARH

DISTRICT- DIBRUGARH
ASSAM

PIN- 786004

Advocate for the Petitioner : MR. T DEURI

Advocate for the Respondent : SC, DIB. UNIVERSITY

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

12-05-2023

Heard Mr. T. Deuri, learned counsel for the petitioner. Also heard Mr. R.

Mazumdar, learned Standing Counsel, Dibrugarh University.

The petitioner claims to be a student of Dibrugarh University. By show-cause notice dated 06.03.2023 the petitioner was asked to submit his reply in response to the allegation made pertaining to incidents of ragging and assaulting of 3 (three) students in the hostel. The show-cause notice was issued by the Chairman of Anti Ragging Committee (ARC) of Dibrugarh University. The petitioner submitted his reply to the show-cause. Pursuant thereto by another show-cause i.e. 06.04.2023 the petitioner was put to notice as to why the punishment of cancellation of admission to the P.G. Course of the University should not be imposed. The petitioner filed his reply thereto as well. The matter was heard and thereafter, the Anti Ragging Committee (ARC) on the basis of the materials before it held the petitioner guilty of the allegations. Vide impugned order dated 28.04.2023 the petitioner was rusticated from the Dibrugarh University for the academic session of 2022-2023. He was however allowed to pursue his course from the next academic session without availing the hostel facility provided to the students of the University. A copy of the said order/ notification dated 28.04.2023 was served upon him.

The petitioner before this Court has challenged the said order dated 28.04.2023. However, the further prayer of the petitioner is that pending disposal of the petition, he may be permitted to apply and complete the

formalities for appearing in the final examination of the M.A in History, which is scheduled to be held on within a month or so.

Learned counsel for the petitioner submits that the punishment imposed on the petitioner is harsh considering the allegations. That apart, the committee without taking into consideration of his reply which was furnished in response to the show-cause notices, while passing the impugned order dated 28.04.2023. The impugned order will have the effect of putting his career in jeopardy and he, therefore, prays for appropriate relief from this Court. Mr. Deori has referred to an order dated 14.02.2022 passed in WP(C) 7881/2022 passed by a co-ordinate Bench of this Court in similar matter, whereby the petitioner therein was permitted to avail of the alternative remedy of filing an appeal as prescribed under the Regulations.

Per contra, Mr. R. Mazumder, learned Standing Counsel, Dibrugarh University vehemently opposes the submissions of the learned counsel for the petitioner and submits that the petitioner was given every opportunity to defend his case. All relevant provisions of law and procedures had been adhered to by the ARC before the order was passed. The order was passed considering the seriousness of the offences alleged and therefore, there is no infirmity in the order dated 28.04.2023 rusticating the petitioner from the academic session of

2022-2023. He submits that in the said order the petitioner has been permitted to pursue the remainder of the programme in the next academic session without availing any hostel facilities. Mr. Mazumdar however fairly submits that under the Regulations for Prohibiting Ragging and Anti-Ragging Measures, alternative remedy is available i.e. there is a provision for preferring an appeal before the Executive Council, Dibrugarh University against the order of punishment issued by the ARC. And if any appeal is filed by the petitioner before the Executive Council then the same can be disposed of within a specified period.

Having heard the learned counsels for the parties and upon perusal of the regulations which is enclosed to the writ petition, it is seen that under the Section 7C of the *Regulations for Prohibiting Ragging and Anti-Ragging Measures*, there is indeed a provision for an appeal against the order of punishment as recommended by the ARC and which shall lie before the Executive Council of the Dibrugarh University.

Perusal of the impugned order 28.04.2023 shows that the punishment has been imposed by the Anti Ragging Committee in its meeting held on 19.04.2023. This notification was issued through the Dibrugarh University. The order dated 14.02.2023 passed in W.P.(C) No. 7881/2022 by a co-ordinate Bench of this Court has also relegated the petitioner therein to avail the

alternative remedy prescribed under the Regulations file appeal before the appellate authority prescribed.

Considering the fact that this matter pertains to a serious issue concerning ragging of a fellow student by the petitioner and that findings are arrived at by the ARC, this Court is of the view that since the regulations provide for an appeal to be preferred before the competent authority, namely, the Executive Council, this Court is of the considered view that this Writ Petition can be disposed of by relegating the petitioner to file an appeal as prescribed under the Regulations before the Executive Council of the Dibrugarh University. It is more so in view of the fact that there will be factual issues which will have to be considered by the competent authority while deciding whether the imposition of punishment of the petitioner by the ARC is just and proper in terms of the provisions of *Regulations for Prohibiting Ragging and Anti-Ragging Measures*, which is adopted by the Dibrugarh University.

Accordingly, this writ petition is disposed of by directing the petitioner to approach the Executive Council, Dibrugarh University for filing an appeal against the order dated 28.04.2023 in terms of the provisions of Section 7 C of the *Regulations for Prohibiting Ragging and Anti-Ragging Measures*. If the appeal as directed is filed by the petitioner within 10(ten) days from today, then the same

shall be considered within a further fifteen (15) days from the date of receipt of the appeal along with the certified copy of this order. The Executive Council before passing any order will also give personal hearing to the petitioner. Any order that is passed on the Appeal that may be preferred by the petitioner, a copy thereof be served to the petitioner.

In view of the submissions made by the learned counsel for the petitioner that the process for filling up of forms and other particulars for the 4th Semester Examination has commenced and is likely to be over shortly, the petitioner shall be permitted by the University authorities to fill up such forms and particulars for the 4th Semester Examination in "*History*". The petitioner is so permitted as in the event of any order that may be passed by the Executive Council interfering with or modifying the order dated 28.04.2023 passed by the ARC, the petitioner will not be compelled to lose his academic year. However, it is made clear that the permission to file the forms and particulars for the 4th Semester Examination in History is only till the final decision is rendered by the appellate authority i.e. Executive Council. This shall not be considered to be a right conferred on the petitioner in the event the Executive Council decides to uphold the orders of the ARC passed against the petitioner.

The writ petition stands disposed of in terms of the above directions.

JUDGE

Comparing Assistant