

GAHC010117082015



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

Case No. : WP(C)/3299/2015

MISS ANAMIKA KURMI and 73 ORS,
D/O TAPAN KURMI VILL- MAIJAN T.E., P.O. DIBRUGARH DIST.
DIBRUGARH, ASSAM.

VERSUS

THE STATE OF ASSAM and 6 ORS,
TO BE REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM, TEA TRIBES WELFARE DEPARTMENT, ASSAM CIVIL
SECRETARIAT, DISPUR, GUWAHATI- 788006.

2:THE DIRECTOR
WELFARE OF TEA AND EX TEA GARDEN TRIBES

RUPNAGAR
GUWAHATI-32

3:THE PRINCIPAL SECRETARY
THENGAL KACHARI AUTONOMOUS COUNCIL

GOVT. OF ASSAM
TITABOR
ASSAM

4:THE DIRECTOR OF MEDICAL EDUCATION
ASSAM
SIXMILE
KHANAPARA
GUWAHATI-22

5:ASSAM DOWN TOWN UNIVERSITY
(TO BE REPRESENTED BY THE REGISTRAR

ASSAM DOWN TOWN UNIVERSITY
SANKAR MADHAB PATH
GANDHI NAGAR
PANIKHAITI
GUWAHATI-781036)

6:MS. GARIASI DUTTA
RESIDENT TRUSTEE
DOWN TOWN CHARITY TRUST
G.S. ROAD
DISPUR
GUWAHATI-6

7:ALL INDIA COUNCIL FOR TECHNICAL EDUCATION (AICTE)
TO BE REPRESENTED BY ITS REGIONAL OFFICER CUM ASSISTANT
DIRECTOR
ERO CAMP OFFICE
GUWAHATI-13
ASSA

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : MR. M GOGOI (R-5, R-6)

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

JUDGMENT & ORDER (ORAL)

Date : 10-10-2023

Heard Mr. A.U. Ahmed, learned counsel for the petitioners and Mr. B. Deuri, learned Junior Government Advocate for the respondents No. 1 and 2, being the authorities under the Tea Tribes Welfare Department and Welfare of Tea and Ex-Tea Garden Tribes, respectively. Also heard Mr. M.K. Misra, learned counsel for the respondent No. 3, being the authorities in the Thengal Kachari Autonomous Council; Ms. S. Sarma, learned counsel for the respondent No. 4, being the Director of Medical Education Department; Mr. N. Deka, learned counsel for the respondents No. 5 and 6, being the authorities in the Assam Down Town

University and Mr. S.C. Keyal, learned counsel for the respondent No. 7, being the authorities in the All India Council for Technical Education.

2. The petitioners herein claim to be belonging to Tea Tribes community and Thengal Kachari community respectively, and that they hail from BPL families. The respondents in the Tea Tribes Welfare Department and Thengal Kachari Autonomous Council have a scheme of sponsoring candidates belonging to the respective communities for undergoing certain paramedical courses and the entire expense of undergoing such courses are undertaken by the two authorities. In such process, the 74 (seventy four) writ petitioners, 44 (forty four) of them who are stated to be belonging to the Tea Tribes community and 30 (thirty) to the Thengal Kachari community were all sponsored and admitted to undergo the course of Diploma in Medical Laboratory Technician and other courses in the respondent Assam Down Town University. Accordingly, the petitioners were admitted to the courses for the session 2014-15.

3. Upon being admitted and after undergoing the courses for certain period of time, an apprehension arose in the minds of the writ petitioners that the courses to which they were admitted under the Assam Down Town University were not appropriately recognized and further that the diploma that may be obtained will not lead the petitioners availing Government jobs. Upon such apprehension, the petitioners undertook an agitational approach and in the process, the Director of Welfare of Tea and Ex-Tea Garden Tribes caused an enquiry to be made on the apprehensions that arose in the minds of the writ petitioners as well as the agitational approach that they had undertaken. The Research Officer in the Directorate of Welfare of Tea and Ex-Tea Garden Tribes submitted a report dated 07.03.2015 to the Director of Welfare of Tea and Ex-Tea Garden Tribes. In clause 2 of the report, the Research Officer stated that it

could not be ascertained as to whether the diploma/degree awarded by the Assam Down Town University would result in an eligibility to apply for jobs in Government establishments.

4. It is stated the report dated 07.03.2015 was also made available to the writ petitioners students which further led to an intensification of the agitational approach. Ultimately, the writ petitioners stated that as because of the uncertainty in their minds, all of them left the courses mid way through. In the circumstance, this writ petition is instituted claiming appropriate relief including compensation to be paid to the petitioners.

5. Apart from what is noted above, no further material is available before the Court on the assertion of the writ petitioners. The respondents in the Assam Down Town University has produced all the relevant materials including the recognition given by the UGC as regards the courses that they are offering and the examination of the documents produced does not reveal in any manner that the respondent Assam Down Town University was not duly authorized to offer the courses to which the petitioners were admitted. No material is available that the petitioners students had even approached the authorities of the Assam Down Town University for a clarification as regards the validity and acceptability of the courses that are being offered and the petitioners are subjected to.

6. Ms. S. Sarma, learned counsel for the respondent Medical Education Department of the Government of Assam has produced certain advertisements for recruitment of paramedical staff in respect of jobs available under the Government of Assam and such advertisements also indicate that person having the required qualification from the Assam Down Town University are also eligible to apply in such recruitment process.

7. As it is the specific stand of the authorities in the Medical Education

Department and Health Department of the Government of Assam that the persons acquiring the qualification from the Assam Down Town University are also eligible to participate in a selection process as well as to be offered Government jobs under the Government of Assam, the initial apprehension in the minds of the writ petitioners that the diploma/degree that they would obtain, would have no value appears to be unfounded.

8. No material is available before the Court that the writ petitioners had undertaken any effort to get it verified from the authorities in the Medical Education Department and Health Department of the Government of Assam as to whether the qualification that would be obtained from the Assam Down Town University would be acceptable to the Government of Assam or not.

9. Considering the two aspects, it appears that the apprehension in the minds of the writ petitioners was not based upon any credible material. The only confusion that may have been created was the enquiry report of the Research Officer where it was stated that it could not be ascertained as to whether the diploma/degree awarded by the Assam Down Town University are eligible to apply for jobs in Government establishments.

10. From such point of view, certain laches are noticed on the part of the authorities in the Department of Welfare of Tea and Ex-Tea Garden Tribes inasmuch as, a more effective endeavour could have been made to ascertain the acceptability of the degree/diploma offered by the Assam Down Town University and also if the enquiry report itself is incomplete, the same ought not to have been made available to the writ petitioners students which added to the confusion.

11. In the circumstance, Mr. A.U. Ahmed, learned counsel for the petitioners insists upon that in the meantime as 9 (nine) years have passed by, some of the

writ petitioners may have been married and others may have ventured into some other vocations and therefore, they ought to be compensated for having been prevented from acquiring the qualification of Diploma in Medical Laboratory Technician and other courses for which they were admitted.

12. In such circumstance, by our earlier order dated 19.09.2023, we required the respondents to make their submission as to in what manner the grievances of the petitioners students can be taken care of. In response thereof, Mr. B. Deuri, learned Junior Government Advocate for the respondents in the Tea Tribes Welfare Department refers to a communication dated 20.09.2023 from the Director of Tea Tribes and Adivasi Welfare, Assam, made to the Chairman and Managing Trustee of Down Town Charity Trust, wherein the factual situation was narrated and the authorities of the Assam Down Town University was requested to allow the writ petitioners to continue and complete the respective courses free of cost.

13. In respect thereof, the Assam Down Town University by their communication dated 21.09.2023 had informed the Director of Tea Tribes and Adivasi Welfare that they are agreeable to accede the request to allow the writ petitioners to continue and complete their respective courses.

14. From such point of view, the legal injury that may have been caused because of the slight aberration with reference to the enquiry report appears to be well taken care of. It is also taken note that out of the 74 (seventy four) writ petitioners, 13 (thirteen) of them who belong to the Tea Tribes community have completed their respective courses.

15. Mr. M.K. Misra, learned counsel for the respondents in the Thengal Kachari Autonomous Council also makes a statement that as per the information provided, some of the students belonging to the Thengal Kachari community

have also in the meantime completed their respective courses.

16. The very fact that some of the writ petitioners had in the meantime completed their respective courses also gives an indication that the incident that is relied upon may not have impacted the completion of their respective courses. From such point of view, the offer of the respondents in the Tea Tribes Welfare Department and the Assam Down Town University to allow the rest of the writ petitioners students, if they desire, to continue and complete the courses appears to be a reasonable offer.

17. However, Mr. A.U. Ahmed, learned counsel for the petitioners states that in the meantime, some of the writ petitioners may have changed their vocation and some of them got married, and therefore it may not be convenient to continue with the courses for them. If it is so, it is a personal issue of the respective writ petitioners who do not intend to continue with the courses and no material has been produced that because of the incident raised in this writ petition, any of the writ petitioners are now required to live a life of despair to the extent that their entire career had been brought to a naught.

18. In view of the above and in view of the offer indicated in the communication dated 20.09.2023 of the Director of Tea Tribes and Adivasi Welfare, Assam and the reply of the Assam Down Town University dated 21.09.2023, we provide that any of the writ petitioners who had not continued and completed the courses, if desires, to approach the Director of Tea Tribes and Adivasi Welfare, Assam in respect of the writ petitioners belonging to the Tea Tribes community, or the authorities in the Thengal Kachari Autonomous Council in respect of those writ petitioners to belong to the Thengal Kachari community and the two authorities shall do the needful and coordinate with the Assam Down Town University to facilitate the process of the writ petitioners who

desire to continue and complete their respective courses.

19. However, as indicated above, although no negligence per se is noticed in respect of any of the respondents which appears more to be a misunderstanding of the students of the prevailing situation, but also having taken note that certain inconvenience has been caused to the writ petitioners, a token compensation of Rs. 5000/- be paid to all the writ petitioners to be paid by the Director of Tea Tribes and Adivasi Welfare, Assam in respect of the writ petitioners belonging to the Tea Tribes community and by the Thengal Kachari Autonomous Council in respect of the writ petitioners belonging to the Thengal Autonomous Council. The compensation to be paid only as per the approach of the writ petitioners before the aforesaid authorities.

20. We are making it clear that the compensation is a token compensation in recognition of the inconvenience caused rather than it being a compensatory compensation for any negligence on the part of any of the respondents.

Writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant