

GAHC010126112023



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

Case No. : WP(C)/3361/2023

THE GAUHATI UNIVERSITY AND 2 ORS.
GUWAHATI- 781014,
DISTRICT- KAMRUP(M), ASSAM,
REPRESENTED BY THE REGISTRAR, GAUHATI UNIVERSITY.

2: THE REGISTRAR
GAUHATI UNIVERSITY
GUWAHATI- 781014

DISTRICT- KAMRUP(M)
ASSAM.

3: THE EXECUTIVE COUNCIL
GAUHATI UNIVERSITY
REPRESENTED BY THE REGISTRAR
GAUHATI UNIVERSITY

GUWAHATI- 781014

VERSUS

DR. UDAY KUMAR KHANIKARA AND ANR.
SON OF LATE KULADHAR KHANIKAR,
REGISTRAR, NIT, ARUNACHAL PRADESH/ JOINT REGISTRAR, GAUHATI
UNIVERSITY (ON LIEN),
REGISTRARS QUARTER, NATIONAL INSTITUTE OF TECHNOLOGY,
ARUNACHAL PRADESH CAMPUS,
JOTE, ARUNACHAL PRADESH,
P.O.- NIT JOTE (IN ACCOUNT WITH R.K. MISSION SO),
PIN- 791113.

2:NATIONAL INSTITUTE OF TECHNOLOGY
ARUNACHAL PRADESH CAMPUS
JOTE

ARUNACHAL PRADESH

P.O.- NIT JOTE (IN ACCOUNT WITH R.K. MISSION SO)

PIN- 791113

REPRESENTED BY ITS DIRECTOR

Advocate for the Petitioner : SC, G U

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 12.06.2023

Heard Mr. P.J. Phukan, learned counsel for the petitioner.

2. The case projected by the petitioner is that in the proceedings of Case No. 1 ATA/2022, the pleadings were exchanged only on 28.03.2023 and by the order passed on the said date, the case was fixed on 27.04.2023 for final hearing. On 27.04.2023, the learned counsel for the petitioner could not attend the hearing and the date of hearing was adjourned to 24.05.2023. It is projected that on 24.05.2023, as the counsel holding the brief for the petitioner had some difficulties to attend the hearing and therefore, on 19.05.2023, prayer for adjournment was submitted before the Assam Administrative and Pension Tribunal, Guwahati. On 24.05.2023, the learned Assam Administrative and Pension Tribunal, while granting adjournment, imposed a cost on the petitioner to the extent of Rs.5,000/- to be paid to respondent no.1 herein and a sum of Rs.24,000/- on the respondent no.2 in this writ petition.

3. It is also submitted that when the issue of maintainability of the petition was also a question to be decided on merit, without giving an

opportunity of hearing to the petitioner, the Court ought not to have passed interim order to restrain the petitioners from taking any coercive action against the respondent no.1 herein effecting his service in the NIT, Arunachal Pradesh as well as under the Gauhati University till the appeal is finally disposed of.

4. Accordingly, to challenge the aforesaid impugned order dated 24.05.2023, the present writ petition has been filed under Article 226 of the Constitution of India.

5. The Court finds that under the provisions of Section 9(1)(b) of the Assam Administrative Tribunal Act, 1977, the Assam Administrative and Pension Tribunal has the power and jurisdiction to review its own decision or order in any case.

6. Therefore, instead of keeping the matter pending before this Court, the Court deems it fit and proper to relegate the petitioner to avail statutory remedy by approaching the learned Assam Administrative and Pension Tribunal with an appropriate application for review under Section 9(1)(b) of the Assam Administrative Tribunal Act, 1977 with such prayers as the petitioners may be so advised.

7. Accordingly, as it is still within the domain of the Assam Administrative and Pension Tribunal to review its order, the Court is inclined to close this writ petition with liberty to the petitioner to move the Assam Administrative and Pension Tribunal for review of the order dated 24.05.2023, if so advised.

8. It is needles to mention that if such an application is filed, the Assam Administrative and Pension Tribunal shall pass appropriate orders in accordance with law.

9. This writ petition stands disposed off at the motion stage without

issuing notice on the respondents.

JUDGE

Comparing Assistant