

GAHC010224532021



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

Case No. : WP(C)/7385/2021

JULFIKAR ALI
S/O SOLEMANUDDIN AHMED, R/O VILL AND P.O.-LACHIMA, P.S.-
MUKALMUA, DIST- NALBARI, ASSAM, PIN-781312

VERSUS

THE STATE OF ASSAM AND 5 ORS
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, EDUCATION
HIGHER DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

3:GAUHATI UNIVERSITY
REPRESENTED BY ITS REGISTRAR
JALUKBARI
GUWAHATI-14

4:THE REGISTRAR
GAUHATI UNIVERSITY
JALUKBARI
GUWAHATI-14

5:THE DEPUTY CONTROLLER OF EXAMINATIONS
GAUHATI UNIVERSITY
JALUKBARI
GUWAHATI-14

6:BARKHETRI COLLEGE
REPRESENTED BY THE PRESIDENT

GOVERNING BODY
MUKALMUA
DIST- NALBARI
ASSAM-78112

Advocate for the Petitioner : MR S MUKTAR

Advocate for the Respondent : SC, HIGHER EDU

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

30.08.2023

Heard Mr. SK Muktar, learned counsel for the petitioner, Mr. AR Tahbildar, learned counsel for the respondents in the Higher Education Department and Mr. A Ahmed, learned counsel for the respondents in the Gauhati University. Considering the nature of the order proposed to be passed, the authorities in the Barkhetri College are not required to be heard.

2. The petitioner earlier instituted WP(C) No. 4446/2021 claiming for provincialisation in the post of Lecturer in Philosophy in the Barkhetri college as per the appointment letter dated 31.07.2010. In the said proceeding, an issue had arisen as to whether the number of students in the subject Philosophy did satisfy the required number of students under the Rules. In the circumstance, there was a document dated 19.02.2021 providing for the number of students that were enrolled in the subject Philosophy and by the order dated 16.09.2021, the authorities were directed to reconsider the claim of the petitioner for provincialisation by taking note of the said document dated 19.02.2021, which was annexed as Annexure-J page 57 to WP(C) No. 4446/2021. In the resultant process, the order dated 27.10.2021 of the Director of Higher Education had

been passed by which the claim for provincialisation of the petitioner was rejected. This writ petition is instituted on the grievance that although there was a specific direction to consider the document dated 19.02.2021 while considering the case of the petitioner for provincialisation, it was in fact not done so and the provincialisation was refused without taking the said document into consideration.

3. During the pendency of the writ petition, the respondents have produced a copy of the communication dated 23.06.2023 by which the Director had informed that as per the mail dated 20.06.2020 of the Registrar, Gauhati University, a total of 136 i.e. 15 major and 121 general number of students appeared in the final examination of the year 2016 against the subject Philosophy in the Barkhetri college and according to the respondents, the same number is sufficient enough for provincialisation of the services of the petitioner. It is stated that as per the subsequent mail dated 27.02.2021 of the Registrar, Gauhati University, total number of students is 190 i.e. 16 major and 174 general students, who had appeared in the final examination of 2016.

4. In view of such stand of the respondents, the order dated 27.10.2021 is set aside and the matter is remanded back to the Director of Higher Education for a fresh consideration by taking note of the contents of the communication dated 23.06.2023 of the Director himself made to the learned standing counsel for Higher Education. The Director may do the needful as required under the law.

5. The requirement be done by the Director within a period of three months from the date of receipt of a certified copy of this order.

The writ petition is disposed of as indicated above.

The communication dated 23.06.2023 is kept on record.

JUDGE

Comparing Assistant