

GAHC010244592022



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

Case No. : WP(C)/7673/2022

LABDHA PRATIM DAS AND 2 ORS
SON OF SRI BHABEN DAS,
A RESIDENT OF VILLAGE AND P.O.- BARUAHOLA,
TINSUKIA, PIN- 786183.

2: HEMANGA BHUYAN
SON OF SRI ATUL BHUYAN

A RESIDENT OF VILLAGE- GOPALPUR GAON

P.O.- GARMUR
MAJULI

PIN- 785105.

3: ANKUR HATIBARUAH
SON OF SRI THANESWAR HATIBARUAH

A RESIDENT OF VILLAGE- SONARI CHAPARI

P.O.- KEKURI DHAKUAKHANA

PIN- 787055

VERSUS

DIBRUGARH UNIVERSITY AND 5 ORS
REPRESENTED BY THE VICE-CHANCELLOR,
RAJABETA, DIBRUGARH, ASSAM,
PIN- 786004.

2: THE VICE-CHANCELLOR
DIBRUGARH UNIVERSITY
RAJABETA

DIBRUGARH
ASSAM

PIN- 786004.

3:THE REGISTRAR
DIBRUGARH UNIVERSITY
RAJABETA
DIBRUGARH
ASSAM

PIN- 786004.

4:THE DISCIPLINARY ACTION COMMITTEE (DAC)
REPRESENTED BY ITS CHAIRPERSON

DIBRUGARH UNIVERSITY

RAJABETA
DIBRUGARH
ASSAM

PIN- 786004.

5:THE JOINT REGISTRAR (ADMIN) AND CONVENOR OF THE
DISCIPLINARY ACTION COMMITTEE (DAC)
DIBRUGARH UNIVERSITY

RAJABETA
DIBRUGARH
ASSAM

PIN- 786004.

6:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY OF
DEPARTMENT OF HIGHER EDUCATION
ASSAM

DISPUR
GUWAHATI
PIN- 781006

Advocate for the Petitioner : MR. S SARMA

Advocate for the Respondent : SC, DIB. UNIVERSITY

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

21/02/2023

Heard Mr. S Sarma, learned Senior counsel assisted by Mr. T K Bhuyan, learned counsel for the petitioners. Also heard Mr. R Mazumdar, learned Standing counsel, Dibrugarh University for the respondent Nos. 1 to 5 and Mr. K Gogoi, learned Standing counsel, Higher Education Department for the respondent No. 6.

Petitioner No. 1, Labdha Pratim Das is a student of Master Degree in Assamese in Dibrugarh University and a border of Mafizuddin Ahmed Hazarika Chatra Nivas (Boys Hostel) of said University. Petitioner 2, Hemanga Das is also a student of said University pursuing his Master of Business Administration in its Centre for Management Studies. Petitioner No. 3, Ankur Hatibaruah is another student of Centre for Tea & Agro Studies at Dibrugarh University.

Pursuant to the recommendation of the Disciplinary Action Committee (DAC) in its meeting dated 17.11.2022 and considering the provisions of the Dibrugarh University Students' Conduct and Discipline Rules, the Registrar of Dibrugarh University by Order No. DU/RG/b.01.11/ 2022/5470 dated 17.11.2022 disqualified the petitioners from pursuing further studies and prohibited them from further admission or re-admission in the Dibrugarh University with immediate effect, ceased their studentship of Dibrugarh University and further, strictly prohibited their entry and movement in the Dibrugarh University campus, observing that any breach of the same shall be strictly dealt with as per law.

Being aggrieved, petitioners filed this writ petition on 28.11.2022 alleging that the impugned punitive order dated 17.11.2022 issued by the respondent Dibrugarh University is illegal and also is in violation of the provisions of the Dibrugarh University Students' Conduct and Discipline Rules.

During pendency of this petition in pursuance of the order of the Court dated 01.12.2022 passed in the present proceeding and the Order dated 05.12.2022 passed by the Hon'ble Division Bench in Writ Appeal No.376/2022 that was preferred by Dibrugarh University, the petitioners have appeared and completed their End Semester Examinations conducted by the Dibrugarh University that commenced from 6th, 8th and 7th December, 2022 with regard to the concern subjects of the

petitioners, respectively.

By order dated 05.01.2023, the Hon'ble Division Bench disposed of said Writ Appeal No. 376/2022 and remanded the matter back to the Single Bench for its decision observing that the results of the petitioners shall not be declared till such disposal.

During deliberation of the matter, Mr. R Mazumdar, learned counsel, representing Dibrugarh University submitted that if the petitioners file appeals before the concerned authority within any specified time by taking all grounds, set forth in this petition, the authorities concerned of Dibrugarh University will take a decision on the matters within a reasonable time that may be fixed by the Court.

Said proposal of Mr. Mazumdar, learned counsel for the respondent Dibrugarh University have been accepted by Mr. S Sarma, learned Senior counsel appearing on behalf of the petitioners.

Mr. Sarma, learned Senior counsel for the petitioners, however, placed before the Court the Notification under Memo No.DU/DR-A/PG-CBCS/18/1430 dated 21.11.2018 of the Dibrugarh University pertaining to the "New Dibrugarh University Regulations for the Post Graduate Programmes in the Choice Based Credit System, 2018" along with the relevant provisions of Rules, where Rule 8 of said 2018 Regulations, containing the provisions of Rule 8.1 to Rule 8.13, pertains to 'Examination' and Rule 9 of said 2018 Regulations, containing the provisions of Rule 9.1 to 9.5, stipulates about the 'Result and Progression'. Further, Rule 10 of said 2018 Regulations, containing the provisions of Rule 1.1 to 1.8, relates to 'Evaluation and Declaration of Results'.

On the other hand, Mr. R Mazumdar, learned Standing counsel, Dibrugarh University placed before the Court the provisions of Rules 8.4 and 8.5 of said 2018 Regulations, where in the last portion of the Rule 8.4, it is stipulated that *–the students shall compulsorily attend the two In-Semester Examination, failing which they will not be allowed to appear for the End-semester examination.*

Accordingly, on consensus, this writ petition is disposed of, in terms of the following directions:

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(i) The petitioners, individually, shall file their respective appeals, stating their grievances therein, before the Registrar of Dibrugarh University within a period of 10 (ten) days from today, i.e., on or before 03.03.2023, obtaining necessary acknowledgement from the said authority.

(ii) The Registrar of Dibrugarh University on receipt of such appeals from the petitioners within the said specified time, i.e. on or before 03.03.2023, forthwith shall forward those appeals of the petitioners to the Executive Council of Dibrugarh University.

(iii) The Executive Council of Dibrugarh University, within a period of 15 (fifteen) days from the receipt of those appeals of the petitioners, shall dispose of them by reasoned orders, in accordance with law, intimating the petitioners about the outcome of their said appeals.

(iv) From the date of filing their respective appeals, as directed above and till disposal of those appeals of the petitioners by the Executive Council of Dibrugarh University, the impugned Order No. DU/RG/b.01.11/2022/5470 dated 17.11.2022 issued by the Registrar of said University, noted above, with regard to the petitioners, shall remain suspended.

(v) During such period from the date of filing of their respective appeals till their disposal by the Executive Council of Dibrugarh University, the petitioners shall be allowed to attend their respective classes and to access the library of the Dibrugarh University, within the day time.

(vi) However, it is made clear that during their presence in the Dibrugarh University, as directed above, the petitioners shall maintain peace, tranquility and harmony. Any breach of such peace, tranquility and harmony by the petitioners, on approach of the respondent University, the Court shall consider to pass necessary order(s).

(vii) The respondent Dibrugarh University shall declare the results of the End-Semester Examinations of the petitioners, following the provisions prescribed in said 2018 Regulations.

JUDGE

Comparing Assistant