



**Serial No. 10**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

Cont.Cas(C) No. 65 of 2022

Date of Decision: 18.06.2024

Dr. Nilesh K. Jaybhaye  
S/o Shri Kesharao Jaybhaye,  
Indira Colony, Dabaki Road Old City,  
PIN Code: 444002  
District: Akola, Maharashtra

.....Petitioner

-Versus-

1. Dr. Nalin Mehta  
Director, North Eastern Indira Gandhi  
Regional Institute of Health and Medical Sciences, (NEIGRIHMS),  
Mawdiangdiang, Shillong-793018  
District: East Khasi Hills, Meghalaya
2. Dr. (Mrs) Asima Bhattacharya  
Dean and HOD, Anatomy Department  
North Eastern Indira Gandhi Regional  
Institute of Health and Medical Sciences  
(NEIGRIHMS), Mawdiangdiang,  
Shillong-793018,  
District: East Khasi Hills, Meghalaya
3. Dr. A. J. Patowary  
HOD, Department of Forensic Science/  
Post Graduate Exam Controller/  
Chairman of Ex-parte Committee,  
North Eastern Indira Gandhi Regional



Institute of Health and Medical Sciences  
(NEIGRIHMS), Mawdiangdiang,  
Shillong-793018  
District: East Khasi Hills, Meghalaya

4. Shri Jiten Singh  
Law Officer/RTI Officer  
North Eastern Indira Gandhi Regional  
Institute of Health and Medical Sciences  
(NEIGRIHMS), Mawdiangdiang,  
Shillong-793018.  
District: East Khasi Hills, Meghalaya

...Respondents/Contemnors

---

**Coram:**

**Hon'ble Mr. Justice W. Diengdoh, Judge**

---

**Appearance:**

For the Petitioner/Appellant(s) : Mr. S.D. Upadhaya, Adv. with  
Ms. A. Synrem, Adv.  
For the Respondent(s) : Dr. N. Mozika, Sr. Adv. with  
Ms. L.M.D. Marak, Adv.

---

|     |                                                         |        |
|-----|---------------------------------------------------------|--------|
| i)  | Whether approved for reporting in<br>Law journals etc.: | Yes/No |
| ii) | Whether approved for publication<br>in press:           | Yes/No |

---

**ORDER AND JUDGMENT (ORAL)**

1. This is an application filed under Section 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India with a prayer for drawing contempt proceedings against the respondents/contemnors herein and to punish them for willful disobedience



of this Court's order dated 25.07.2017 passed in WP(C) No. 61 of 2017.

2. Heard Mr. S.D. Upadhaya, learned counsel for the petitioner who has submitted that the petitioner was a medical student of North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences (NEIGRIHMS) in the Department of Anatomy for the session of 2013-2016 pursuing his MD/MS course.

3. In course of his studies in the said institute, the petitioner was subjected to discrimination, torture and harassment by the authorities of the Institute and faculty members of the Anatomy Department. Such discriminations are mostly in the area of caste, language and religion wherein he was looked down by those in position of authorities and the like. In the process, two years of his academic career and in spite of his complaint, the Institute has failed to provide security to him or to look into his grievance.

4. Under such circumstances, the petitioner was compelled to approach this Court by way of a writ petition under Article 226 of the Constitution of India, the same being registered as WP(C) No. 61 of 2017.

5. The said writ petition was disposed of by this Court vide order dated 25.07.2017, the relevant and operative portion of the said judgment being para 7, wherein inter alia at para 7(v) the following direction has been set out:-

“7...

*(v) In case the petitioner does not want to pursue further studies and wants to leave the university, no adverse remark should be*



*noted or written in his certificates and he should be treated at par with the other students without any malicious intention.”*

6. The learned counsel has also submitted that in due course the petitioner completed his MD course and a provisional certificate dated 02.11.2021 was issued by the North Eastern Hill University (NEHU) to indicate that he has passed the course of MD (Anatomy).

7. However, when a Character and Conduct Certificate dated 27.01.2022 was issued to him by the NEIGRIHMS under the signature of Prof. (Dr.) A. Bhattacharyya, Dean, NEIGRIHMS, the last portion of the said certificate reads as follows:-

*“During this period his character is **satisfactory** and his conduct was found to be not appropriate and conducive for a P.G student.”*

8. This according to the learned counsel for the petitioner is a clear violation of the direction issued by this Court in WP(C) No. 61 of 2017, more specifically of sub-para (v) of para 7 of the said order dated 25.07.2017.

9. The learned counsel has also further submitted that the petitioner having faced discrimination in the Institute, for example, when his prayer for extension of time to submit his thesis, which was supposed to be submitted by 15.10.2019, the same not being granted, he was compelled to approach this Court wherein vide order dated 20.11.2019 passed in WP(C) No. 475 of 2019 this Court had directed the relevant authorities to extend the date of submission of his thesis by 31.12.2019 which was accordingly done so.



10. Another instance cited is the action of his guide, the respondent No. 2 herein who had discontinued to guide him causing interruption to his studies. Yet another example is the fact that the petitioner came to know that some materials used for the purpose of his thesis project that is, fetuses of mice were found to be missing from his room and were recovered from the room of an Asst. Prof. of Anatomy, resulting in the filing of a complaint by the petitioner before the NEIGRIHMS authority, but till date no decision or findings have been made as regard the said complaint.

11. It is because of instances of such kind as have been indicated herein above that the petitioner was compelled to file complaint before the concerned authority which were not heeded, further submits the learned counsel.

12. It is also the submission of the learned counsel that the petitioner has filed a petition before the respondent No. 1/Director, NEIGRIHMS on 28.01.2022 with a prayer to rectify and to quash the defamatory remarks made in the said Character and Conduct Certificate issued to him on 27.01.2022. On noting that action has not been taken by the authorities concerned in spite of reminders sent in this regard, the petitioner was therefore compelled to file this application with the prayer made therein.

13. The learned counsel has also referred to the minutes of the meeting of a committee constituted to examine the conduct of the petitioner herein held on 17.01.2022 in the office chamber of the HOD, Forensic Medicine and the deliberations of the members therein which culminated in the opinion formed by the members of the committee that the conduct of the



petitioner herein is not appropriate and conducive for the PG student of NEIGRIHMS, which opinion found place in the said Character and Conduct Certificate dated 27.01.2022 issued upon the petitioner, where such opinion according to the learned counsel has been formed without any opportunity given to the petitioner to be heard in the matter.

14. Finally, the learned counsel has submitted that since the prayer of the petitioner for issuance of a fresh character certificate with no adverse remarks has not been taken heed of by the relevant authorities at NEIGRIHMS, the petitioner was compelled to issue a pleader's notice dated 11.05.2022 through his legal counsel with a prayer for issuance of a fresh Character and Conduct Certificate failing which the petitioner would institute appropriate legal proceedings including contempt proceeding.

15. In support of his submission the learned counsel has referred to the case of Balwantbhai Somabhai Bhandari v. Hiralal Somabhai Contractor (Deceased) rep. by Lrs. & Ors. reported in 2023 SCC Online SC 1139, para 40 and 43.

16. Per contra, Dr. N. Mozika, learned Sr. Adv. appearing on behalf of the respondents/contemnors has submitted that the petitioner has not been able to make out any case of contempt against the respondents/contemnors herein.

17. The learned Sr. counsel has once again referred to the order dated 25.07.2017 passed by this Court in WP(C) No. 61 of 2017 and to the relevant paragraph 7 and has submitted that the direction of this Court inter alia is that if he wants to continue his MD course he should be allowed to



do so and he should not be discriminated in any manner and nobody should harass him.

18. At clause (v) of the said para 7, it is directed that *“In case the petitioner does not want to pursue further studies and wants to leave the university, no adverse remark should be noted or written in his certificates and he should be treated at par with the other students without any malicious intention”*. This, according to the learned Sr. counsel would mean that if at any point of time the petitioner wishes to leave the university and to continue further studies outside, then no adverse remark should be noted or written in his certificate. However, this is not the case as far as the petitioner is concerned since he has chosen to continue to study in the said institute (NEIGRIHMS) and has also completed his MD from the same and as such, clause (v) (supra) is not applicable to the case of the petitioner.

19. Again, the learned Sr. counsel has submitted that it is but natural for a student to submit his conduct to the rules and regulations laid down by the institution and in the case of the petitioner, his conduct has clearly violated the norms laid down in this regard. Instances of his misconduct have been cited by referring to one of the complaints filed by the petitioner before the Head of Department, Anatomy, NEIGRIHMS dated 17.05.2020, which complaint was evidently directed against one Dr. Sarah Ralte and also to the HOD, Anesthesia, Dr. Prithwi Bhattacharrya, irrespective of the subject matter, what is to be noted is the use of unpleasant, coarse and unparliamentary language such as “husbandless”, “mouse thief”, “Brahmin gangism” and “India-non India Nonsense” while referring to the alleged conduct of the abovementioned officers. The petitioner in the said



complaint has even uttered a curse on the pregnant daughter of Dr. Prithwi Bhattacharya to the effect that the unborn child in her womb will die and she will become a widow and a beggar. The use of such language has definitely attracted the attention of the authorities and as such, a committee was formed to enquire into this matter which was done so. The resultant outcome being the remark made in the said Character and Conduct Certificate (supra).

20. The learned Sr. counsel has also submitted that the direction made at clause (vi) of para 7 of the order dated 25.07.2017 cannot be ignored wherein it was directed that the petitioner is to maintain peace and harmony and the respondents are also directed not to disturb the petitioner. Both the parties are to maintain peace and harmony. The petitioner having violated this provision, he cannot in the same breath impute any disobedience of this Court's order by the respondents.

21. In conclusion, the learned Sr. counsel has submitted that this petition is devoid of merit and the same is liable to be dismissed.

22. This Court has carefully considered the submission of the parties and is made to understand that the petitioner being aggrieved by the issuance of the Character and Conduct Certificate dated 27.01.2022 (supra) wherein, according to him, adverse remarks have been made, the nature of such remarks being contrary to the directions of this Court in the order dated 25.07.2017 in WP(C) No. 61 of 2017 and, therefore, the respondents/contemnors are liable for proceedings under the Contempt of Courts Act, 1971.



23. To comprehend the case sought to be made out by the petitioner, the case of Balwantbhai Somabhai Bhandari (supra) cited by the petitioner is found relevant. Para 40, 41, 42, 43 and 44 are noteworthy to be referred to, the same being reproduced hereunder as:

*“40. The object of the discipline enforced by the court in case of contempt of court is not to vindicate the dignity of the court or the person of the Judge, but to prevent undue interference with the administration of justice.*

*41. Any interference with the course of justice is an affront to the majesty of law and the conduct of interference is punishable as contempt of court. Public interest demands that there should be no interference with the judicial process, and the effect of the judicial decision should not be pre-empted or circumvented. (Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers Bombay Pvt. Ltd., (1988) 4 SCC 592)*

*42. If a party, who is fully in the know of the judgment/order of the Court, is conscious and aware of the consequences and implications of the order of the Court, acts in violation thereof, it must be held that disobedience is wilful. To establish contempt of court, it is sufficient to prove that the conduct was wilful, and that the contemnor knew of all the facts which made it a breach of the undertaking.*

*43. The following conditions must be satisfied before a person can be held to have committed civil contempt: (i) there must be a judgment, decree, direction, order, writ or other process of a court; (ii) there must be disobedience to such judgment, decree, direction, order, writ or other process of a court; and (iii) such disobedience of the judgment, decree, direction, order, writ or other process of a court must be wilful. [Patel Rajnikant Dhulabhai v. Patel Chandrakant Dhulabhai, (2008) 14 SCC 561]*

*44. It behoves the court to act with as great circumspection as possible, making all allowances for errors of judgment. It is only when a clear case of contumacious conduct, not explainable otherwise, arises that the contemnor must be punished. Punishment*



*under the law of contempt is called for when the lapse is deliberate and in disregard of one's duty and in defiance of authority. Contempt proceedings are quasi-criminal in nature, and the standard of proof is the same as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights, including benefit of doubt. [Kanwar Singh Saini v. High Court of Delhi, (2012) 4 SCC 307].”*

24. It is the opinion of this Court that the issuance of the said Character and Conduct Certificate to the petitioner was based on the conduct of the petitioner, who, as has been indicated by the learned Sr. counsel for the respondents, by filing such unwarranted complaints replete with foul language unbecoming of a person in medical profession or a medical student for that matter, even if such complaint has any credence, the manner it was presented can only lead one to form an opinion of the unsavory character and conduct of the author of such a communication, and also lead to the conclusion that the author is himself guilty of the prescribed code of conduct of the Institution.

25. As has been contended by the learned Sr. counsel for the respondents, a reading of clause (v) of the said judgment dated 25.07.2017 would show that what is meant is that if the petitioner chooses to leave the University, then no adverse remarks is to be noted in the certificate issued to him. But the petitioner having opted to remain in the University and to complete his course of MD/MS in Anatomy from NEIGRIHMS, the certificate issued at the end of his course would depend on how he has conducted himself throughout the course, as indicated herein, such being his conduct and character even while filing of the related complaint, the remarks made based on the findings of the said committee cannot be said to



be an act of contempt of court under the circumstances. Clause (vi) and (v) of para 7 of the said judgment dated 25.07.2017 has to be read in conjunction in the context of the issuance of the said certificate.

26. In the light of the above, this Court finds that the petitioner has not been able to make out a case of contempt of court against the respondents herein. This petition is accordingly dismissed as devoid of merits.

27. Taking into account the conduct of the petitioner, this petition is hereby disposed of with cost of ₹ 20,000/- (rupees twenty thousand) only to be paid by the petitioner in favour of the Shillong District Bar Association, such payment to be made within four weeks from the date of this order.

**Judge**

Meghalaya  
18.06.2024

TIPRILYNTI  
KHARKONGOR

Digitally signed by  
TIPRILYNTI KHARKONGOR  
Date: 2024.06.19 15:58:22  
+07'00'