

GAHC010033442024



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

Case No. : WP(C)/849/2024

TALUKDAR HUSSAIN MD ARSHAD
S/O LATE NASIR UDDIN TALUKDAR,
RESIDENT OF VILLAGE BONYAGURI, PO JALESWAR, PS LAKHIPUR, AND
DIST GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY HEALTH AND FAMILY
WELFARE DEPARTMENT TO THE GOVT. OF ASSAM, DISPUR GUWAHATI
781006

2:THE DIRECTOR OF MEDICAL EDUCATION
ASSAM
KHANAPARA
GUWAHATI 22

3:THE PRINCIPAL CUM CHIEF SUPERINTENDENT
GUWAHATI MEDICAL COLLEGE AND HOSPITAL
BHANGAGARH
GUWAHATI 781032

4:SRIMANTA SANKARDEVA UNIVERSITY OF HEALTH SCIENCES

REPESENTED BY ACADEMIC REGISTRAR
2ND FLOOR
GAUHATI MEDICAL COLLEGE BUILDING
GAUHATI MEDICAL COLLEGE
HILL TOP ROAD
NARAKASUR HILLTOP BHANGAGAR
GUWAHATI
ASSAM 781032

5:ACADEMIC REGISTRAR

2ND FLOOR
GAUHATI MEDICAL COLLEGE BUILDING
GAUHATI MEDICAL COLLEGE
HILL TOP ROAD
NARAKASUR HILLTOP BHANGAGAR
GUWAHATI
ASSAM 781032

6:NATIONAL MEDICAL COMMISSIONER

REPRESENTED BY ITS CHAIRMAN
POCKET 14
SECTOR 8
DWARKA PHASE I
NEW DELHI 110077
UNDERGRADUATE MEDICAL EDUCATION BOARD
NATIONAL MEDICAL COMMISSION
POCKET 14
SECTOR 8
DWARKA PHASE I
NEW DELHI 11007

Advocate for the Petitioner : MR. S K DAS

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 14.05.2024

Heard Mr. S.K. Das, learned counsel for the petitioner.

2. Also heard Mr. D.P. Bora, learned Standing counsel, Health Department, for respondent Nos. 1, 2 & 3 and Mr. D.K. Baidya, learned Standing counsel, NMC, for respondent No. 6.

3. The petitioner is presently pursuing the MBBS course in the Guwahati Medical College under Srimanta Sankaradeva University of Health Sciences in 3rd Professional MBBS (Part-I). He was admitted on 30.09.2013 and presently he has passed the 8th Semester out of total 9 Semesters, except 7th Semester.

4. The petitioner is aggrieved by the Notification dated 05.02.2024 issued by the Principal, Guwahati Medical College, Guwahati by which the petitioner was not allowed to appear in 3rd Professional Part-I MBBS examination or further university examinations.

5. Learned counsel for the petitioner submits that on the strength of interim order dated 19.02.2024 passed in the present writ petition, the petitioner has appeared in the 7th Semester of 3rd Professional Part-I MBBS examination, which was held in the month of March, 2024. However, the results insofar as the petitioner is concerned, is kept pending as the matter is subjudiced before this Court.

6. Learned counsel for the petitioner has brought to the notice of this Court that the Regulations of Graduate Medical Education (Amendment) 2019 (hereinafter, the Regulations of 2019), particularly, Regulation No. 2(i), wherein it is provided that the Regulations of Graduate Medical Education, 1997 from Clause - 2 to 14 contained in Chapters I to V and the Appendices and Schedules appended therein shall be included as Part-I of the Regulation. These provisions shall be the governing Regulations with respect to batches admitted in MBBS courses until academic year 2018-19. He, therefore, submits that Regulation 11.2.6 of the Regulations of 2019 does not apply to the case of the petitioner

inasmuch as he was admitted on 30.09.2013, i.e. prior to the academic year 2018-19. He submits that Regulation 11.2.6 provides that the learner shall not be entitled to graduate after 10 years of his/her joining of the first part of the MBBS course. However, the said regulation pertains to students of MBBS who have joined after 2019 and not to those who joined prior to 2019.

7. Mr. D.K. Baidya, learned Standing counsel, NMC, on the basis of written instructions submits that under the Graduate Medical Education Regulations 1997 (as amended), the learner who has joined the MBBS course prior to year 2019-20 Academic Session, there is no bar in completing the MBBS course. However, for students who had enrolled after 2019-20 Academic Session, there is a cap for 10 years for completing MBBS course. He therefore, submits that in respect of the petitioner, there is no outer limit for the petitioner to complete his MBBS course provided that he was enrolled and started pursuing his studies prior to 2019.

8. This Court has considered the Regulations of 2019, which was notified on 04.11.2019 amending the Regulations of Graduate Medical Education, 1997. In the said Regulation 2019, Regulation 11.2.6 provides that the learner shall not be entitled to graduate after 10 years of his/her joining of the first part of the MBBS course. After considering the Notification dated 04.11.2019, particularly, Regulation 2(i), this Court is of the considered opinion that the cap of 10 years is not applicable to the MBBS students who were admitted prior to 2019-20. It must be noted that the petitioner was admitted on 30.09.2013. This Court has also considered the submissions of the learned Standing counsel, NMC.

9. Accordingly, this writ petition is allowed by permitting the petitioner to

appear in the 3rd Professional MBBS (Part-I) Examination to be held from 17.05.2024 onwards and other further university examinations. Accordingly, the Notification dated 05.02.2024 issued by the Principal, Guwahati Medical College, Guwahati, is quashed and set aside.

10. The respondents are directed to declare the result of the 7th Semester in respect of the petitioner forthwith.

JUDGE

Comparing Assistant