

GAHC010125492024



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

Case No. : I.A.(Civil)/2628/2024

JAYANTA KUMAR SARMA
S/O- LATE DEBENDRA NATH SARMA, R/O- C/4, GIRI NIWAS, KHARGULI,
P.O. UZANBAZAR, P.S. LATASIL, DIST. KAMRUP(M), PIN- 781004, ASSAM

VERSUS

KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY AND 2 ORS
REPRESENTED BY ITS REGISTRAR, RESHAM NAGAR, KHANAPARA,
GUWAHATI 781022, DIST KAMRUP M ASSAM

2:THE VICE CHANCELLOR
KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY
RESHAM NAGAR, KHANAPARA
GUWAHATI 781022, DIST KAMRUP M ASSAM

3:BOARD OF MANAGEMENT
KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY
RESHAM NAGAR, KHANAPARA, GUWAHATI 781022
DIST KAMRUP M ASSA

Advocate for the Petitioner : MR. M K CHOUDHURY, MR. M SARMA,MR P BHARDWAJ
Advocate for the Respondent : MR. K N CHOUDHURY (R- 1 TO 3), A DEY(R- 1 TO 3),MR. P J
PHUKAN(R- 1 TO 3)

Linked Case : WA/102/2024

KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY AND 2 ORS
REPRESENTED BY ITS REGISTRAR
RESHAM NAGAR, KHANAPARA, GUWAHATI 781022
DIST KAMRUP M ASSAM

2: THE VICE CHANCELLOR
KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY
RESHAM NAGAR, KHANAPARA

GUWAHATI 781022, DIST KAMRUP M ASSAM

3: BOARD OF MANAGEMENT
KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY
RESHAM NAGAR, KHANAPARA, GUWAHATI 781022
DIST KAMRUP M ASSAM

VERSUS

JAYANTA KUMAR SARMA AND ANR
S/O- LATE DEBENDRA NATH SARMA
R/O- C/4, GIRI NIWAS
KHARGULI, P.O. UZANBAZAR
P.S. LATASIL, DIST. KAMRUP(M)
PIN- 781004, ASSAM

2:UNIVERSITY GRANTS COMMISSION.
BAHADUR SHAH ZAFAR MARG. NEW DELHI-110002.

Advocate for : MR. K N CHOUDHURY
Advocate for : SC
U G C appearing for JAYANTA KUMAR SARMA AND ANR

Linked Case :

JAYANTA KUMAR SARMA

VERSUS

KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY AND 2 ORS E

For applicant(s)/appellant(s) : Mr. M. K. Choudhury, Sr. Advocate
Mr. P. Bhardwaj, Advocate

For respondent(s) :

– BEFORE –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

24.09.2024

(Vijay Bishnoi, CJ)

The matter comes up for consideration of the Interlocutory Application (Civil)
No. 2628/2024 with the prayer to condone the delay of 28 days in filing the connected

review petition seeking review of the order dated 22.04.2024, passed by this Court in W.A. No. 102/2024.

2. This Court, vide the said order dated 22.02.2024, has dismissed the writ appeal filed on behalf of the non-applicant university, however, has granted liberty to the non-applicant university to proceed against the present applicant/review petitioner by providing opportunity of hearing to him. It has also been observed that, while doing so, the respondent university is not required to adhere to the procedure laid down under the Service Rules of 2019.

3. Learned counsel for the applicant has submitted that in similar type of situation, the Hon'ble Supreme Court, vide judgment dated 16.04.2024, rendered in Civil Appeal No(s). ____ of 2024 (Arising out of SLP(C) No. 8788-8789 of 2023 : *Sandeep Kumar vs. GB Pant Institute of Engineering and Technology Ghurdauri & Ors.*), has ruled that the respondent institute can initiate disciplinary proceedings against the incumbent while following the procedure laid down under the rules. It is submitted by the learned counsel for the applicant/review petitioner that since the case of the applicant/review petitioner is similar to the above-referred case, wherein the Hon'ble Supreme Court has passed the order dated 16.06.2024, the order 22.04.2024 passed by this Court in W.A. No. 102/2024 may kindly be reviewed and the relevant part of the order dated 22.04.2024, whereby liberty has been granted to the non-applicant university of proceeding against the applicant/review petitioner without adhering to the Service Rules of 2019, may kindly be deleted from the order.

4. Having heard the learned counsel appearing for the applicant and after going through the material available on record, we are of the view that the facts of *Sandeep Kumar* (supra) are quite distinguishable from the facts of the case of the applicant/review petitioner herein. In the case of *Sandeep Kumar* (supra), the institute had terminated the services of the incumbent while relying on the minutes of the meeting of the Board of Governors held on 16.06.2018. However, the Hon'ble

Supreme Court found that in the said minutes no such observation regarding the qualification, etc. of the incumbent had been recorded and, as such, the reliance placed by the institute on the said minutes of the meeting was erroneous.

5. In the present case, no such situation is there. Hence, we do not find any case for review.

6. In such circumstances, this Interlocutory Application and the connected Review Petition No. 7071/2024 (Filing Number) are dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant