

GAHC010070082024



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

Case No. : WP(C)/4080/2017

DR. ALOKESH CH. ROY
S/O LATE NALINI KANTA ROY
LECTURER S.J.N. HOMEOPATHIC MEDICAL COLLEGE and HOSPITAL
PANJABARI
GUWAHATI-37
R/O WARD NO. 1
SARAT ROY LANE
PO-GAURIPUR
DIST. DHUBRI ASSAM
PIN-783331

VERSUS

THE STATE OF ASSAM
REP. BY ITS COMMISSIONER SECRETARY TO THE GOVT. OF ASSAM
HEALTH and FAMILY WELFARE DEPTT.
DISPUR
GHY-6

2:THE DIRECTOR OF AYUSH
ASSAM
BANPHOOL NAGAR PATH
HOUSE NO. 1
1ST FLOOR
DISPUR
GUWAHATI-6
3:THE PRINCIPAL

S.J.N. HOMEOPATHIC MEDICAL COLLEGE and HOSPITAL
PANJABARI
GUWAHATI-37
4:ROFIQUL ISLAM
S/O UNKNOWN

LECTURER
ASSAM HOMEOPATHIC MEDICAL COLLEGE and HOSPITAL
NAGAON AT HAIBORGAON

Advocate for : MR.M J BARUA

Advocate for : MR.J ALAM (R-3) appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MR. JUSTICE K. SEMA**

ORDER

23.04.2024

Heard Mr. M.J. Baruah, learned counsel for the petitioner and Mr. D.P. Borah, learned Standing Counsel, Health Department, Assam.

2. The present writ petition was filed seeking for the following relief:-

"It is therefore, prayed that Your Lordship would graciously be pleased to admit this writ petition, call for the records, directing the respondents to show cause as to why:

(a) A writ of Mandamus shall not be issued directing and commanding the respondent authority to declare the impugned order of transfer dated 30.06.2017 as bad in the eye of law and/or

(b) A writ of Certiorari shall not be issued for cancelling and quashing the impugned order dated 30.06.2017 issued by the Secretary to the Government of Assam, Health & Family Welfare Department under memo No. HLB.455/2016/Pt/153-B as bad in the eye of law and/or

(c) A writ of certiorari shall not be issued for setting aside the impugned office communication dated 03.07.2017 issued under memo No. SJN HMC/11/89/6241 by the petitioner directed to be

released from the existing post of posting and/or

(d) A writ of certiorari shall not be issued to cancel and set aside the impugned order dated 04.07.2017 issued by the respondent no. 3 the Principal releasing the petitioner from the SJN Homeopathic Medical College & Hospital, Guwahati, and after cause and causes been shown and after hearing the parties Your Lordship may be pleased to make the Rule absolute.”

3. By the impugned Order dated 30.06.2017, the petitioner, who was serving as a Lecturer of Pathology, Swahid Jadav Nath Homeopathic Medical College & Hospital, Guwahati, was transferred in the same capacity and posted at Dr. J.K. Saikia Homeopathic Medical College & Hospital, Jorhat, with effect from the date of taking over charge, by the impugned Letter dated 03.07.2017, written by the Principal i/c, Swahid Jadav Nath Homeopathic Medical College & Hospital, Panjabari, Guwahati, the petitioner was directed to join duty at Dr. J.K. Saikia Homeopathic Medical College & Hospital, Jorhat, within 7 (seven) days from the date of issue of the Letter and by the impugned Order dated 04.07.2017, issued by the Principal, Swahid Jadav Nath Homeopathic Medical College & Hospital, Guwahati, the petitioner was released on 04.07.2017 so as to enable the petitioner to join his new place of posting at Dr. J.K. Saikia Homeopathic Medical College & Hospital, Jorhat, with immediate effect.

4. By the Order dated 14.07.2017, passed by this Court, the Order dated 30.06.2017 transferring the petitioner from Swahid Jadav Nath Homeopathic Medical College & Hospital, Guwahati, to Dr. J.K. Saikia Homeopathic Medical College & Hospital, Jorhat, was stayed.

5. Today, when the matter is listed, Mr. D.P. Borah, learned Standing

Counsel, Health Department, Assam, has placed a copy of the Notification dated 29.11.2022, issued by the Government of Assam, Medical Education & Research Department, Dispur, Guwahati, in the connected IA(Civil)/1052/2024. The Notification dated 29.11.2022 has *inter alia* provided that, the Government of Assam has amalgamated the three Homeopathic Colleges & Hospitals of Assam, namely:-

- (i) Swahid Jadav Nath Homeopathic Medical College & Hospital, Guwahati,
 - (ii) Assam Homeopathic Medical College & Hospital, Nagaon, and
 - (iii) Dr. J.K. Saikia Homeopathic Medical College & Hospital, Jorhat,
- into a single Homeopathic College in Guwahati, namely, "Swahid Jadav Nath Homeopathic Medical College & Hospital, Guwahati".

6. Mr. D.P. Borah, learned Standing Counsel, Health Department, Assam, accordingly submits that in view of the Notification dated 29.11.2022, the present writ petition no longer survives and is liable to be dismissed.

7. This Court has perused the Notification dated 29.11.2022, issued by the Government of Assam, Medical Education & Research, Dispur, Guwahati, amalgamating the three Homeopathic Medical College & Hospitals of Assam, namely:-

- (i) Swahid Jadav Nath Homeopathic Medical College & Hospital, Guwahati,
 - (ii) Assam Homeopathic Medical College & Hospital, Nagaon, and
 - (iii) Dr. J.K. Saikia Homeopathic Medical College & Hospital, Jorhat,
- into a single Homeopathic College in Guwahati, namely, "Swahid Jadav Nath Homeopathic Medical College & Hospital, Guwahati".

8. In the writ petition, the petitioner has challenged the Order dated 30.06.2017 by which the petitioner, who was serving as Lecturer of Pathology, Swahid Jadav Nath Homeopathic Medical College & Hospital, Guwahati, was transferred in the same capacity and posted at Dr. J.K. Saikia Homeopathic Medical College & Hospital, Jorhat, with effect from the date of taking charge. However, in view of the Notification dated 29.11.2022, issued by the Government of Assam amalgamating the three Homeopathic Medical Colleges & Hospitals, Assam, into one entity, namely, Swahid Jadav Nath Homeopathic Medical College & Hospital, Guwahati, this Court is of the view that the cause of action in the writ petition no longer survives against the State respondents.

9. The writ petition, is therefore, disposed as infructuous.

10. With regard to the issue of non-payment of salary/allowances etc., if any, to the petitioner, the petitioner shall submit necessary representation to the appropriate authority and the concerned authority shall address the same without any delay.

JUDGE

Comparing Assistant