

GAHC010238282023



2024:GAU-AS:10395

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

Case No. : WP(C)/6276/2023

DR. JINTU SARMA
S/O LATE JATINDRA NATH SARMA
R/O FLAT NO. 103, GUNJAN TOWER, PARAG DAS PATH, BAMUNIMAIDAM,
GUWAHATI, DIST.KAMRUP (M), ASSAM, PIN-781021

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HIGHER EDUCATION DEPARTMENT, DISPUR, GUWAHATI-6, DIST.
KAMRUP (M), ASSAM

2:GAUHATI UNIVERSITY
REP. BY THE CONTROLLER OF EXAMINATION
JALUKBARI
GUWAHATI-14.

3:THE DIRECTOR OF HIGHER EDUCATION
GOVT. OF ASSAM
KAHILIPARA
GUWAHATI-19
PIN-781019

4:THE GOVERNING BODY OF GUWAHATI COLLEGE
REPRESENTED BY THE PRESIDENT DR. INDRA KUMAR BHATTACHARYA
GUWAHATI COLLEGE
BAMUNIMAIDAM
GUWAHATI-21.

5:THE PRINCIPAL OF GUWAHATI COLLEGE
BAMUNIMAIDAM

GUWAHATI-21

6:DR UMA KANTA CHOWRA
HEAD OF THE DEPARTMENT
BOTANY GUWAHATI COLLEGE
BAMUNIMAIDAM
GUWAHATI-21

Advocate for the Petitioner : MR. M J BARUAH, MR. JITU SAIKIA,MR. A. ALI

Advocate for the Respondent : SC, HIGHER EDU, MR. M GOGOI(r-4,5),MR. N DEKA (r-4,5),MR. S CHAKRABORTY (R-6),SC, G U

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 23.10.2024

- 1.** Heard Mr. M.J. Baruah, learned counsel for the petitioner.
- 2.** Also heard Mr. S. Bhuyan, learned standing counsel, Higher Education Department, for the respondent Nos. 1 & 3; Mr. P.J. Phukan, learned standing, Gauhati University, for the respondent No. 2; Mr. N. Deka, learned counsel for the respondent Nos. 4 & 5 and Mr. S. Chakraborty, learned counsel for the respondent No. 6.
- 3.** The petitioner, before this Court, is presently serving as Assistant Professor in the Department of Botany in the Guwahati College and is aggrieved by the remarks of the Principal, Guwahati College made in his Service Book, which reads as under:

“Dr. Jintu Sarma is released from the position of Head of the Department of Botany on 28.11.2022 due to a few lapses on his part related to important College examination works.”

- 4.** Mr. M.J. Baruah, learned counsel for the petitioner, submits that while the petitioner was serving as Head of Department in the Department of Botany

under the Guwahati College, the Principal of the said college issued a Whatsapp Notification on 25th July, 2022 informing all the HoDs to upload all the Sessional Marks in the Gauhati University Portal (2, 4 & 6 Semester 2022 and 6 Semester all practical and project marks) on or before 29.07.2022, wherein in respect of the Botany Department, the date was fixed on 26.07.2022. As there was no portal under the Gauhati University for uploading the Sessional Marks, the petitioner sent a message saying that it may not be the Sessional Marks but it would be internal marks. Thereafter, a show cause notice dated 21.10.2022 was issued to the petitioner by the Principal of Guwahati College, wherein it is stated that the petitioner has not submitted the Internal Assessment marks of the Skill Enhancement Courses Paper (SEC in short) of 4th Semester of the students of the petitioner's department to the College Examination Committee as notified to be submitted on 26.07.2022. Further, it was also alleged that the petitioner has prohibited a few students of the 3rd & 5th Semester to appear in the Sessional Examination which was held from 13th to 20th October, 2022 without informing the College Principal. Accordingly, the petitioner was directed to submit his reply on or before 27.10.2022. The petitioner submitted his reply on 21.10.2022 clarifying his stand and also stating that the Examination Committee refused to take the practical folio of SEC paper on 29.09.2022 and 30.09.2022. Further, the petitioner clarified that with regard to the prohibition of a few students from appearing in the Sessional Examination, the said decision was taken departmentally based on the support and directives of the respective President of the Governing Body during its meeting with all the Faculty Members on 13.08.2022. Thereafter, another show cause notice dated 22.11.2022 was issued to the petitioner by the Principal of the Guwahati College on the same allegations already made in the earlier show cause notice dated 21.10.2022. In

his reply to the show cause notice dated 22.11.2022, the petitioner categorically stated that the practical marks of the paper in question SEC has already been received by the Member of the Examination Committee (Dr. U.K. Chowra) on 17.10.2022. Further, as regards the prohibition to the students from appearing in the Sessional Examination, he clarified that the said decision was taken departmentally based on the support and directives of the President of the Governing Body as already mentioned in his earlier reply to the show cause notice dated 21.10.2022. Further, he also clarified that he has submitted all the Sessional marks to the Examination Committee in time including the earlier prohibited students by organizing a special Sessional Test after they met the required criteria.

5. The learned counsel for the petitioner submits that despite clarification made by the petitioner in his reply on 23.11.2022, the Principal of Guwahati College by a Communication dated 28.11.2022 released the petitioner as HoD of Botany Department with immediate effect and directed him to hand over charge to the next senior teacher Dr. U.K. Chowra, Assistant Professor, Department of Botany on 28.11.2022. Accordingly, the petitioner handed over charge to the said Dr. U.K. Chowra on 28.11.2022. It is submitted that the petitioner while going through his Service Book, he came across the remarks made by the Principal of the Guwahati College and being aggrieved, he made an RTI application before the Deputy Controller of Examinations, Gauhati University, who in-turn on 29.03.2023 replied that there was no lapses in the marks feeding/sending against SEC paper from the Department of Botany, Guwahati College in the year, 2022 and moreover, no students suffered and results were declared as per schedule. He, therefore, submits that as none of the students had suffered and as the petitioner has submitted the marks feeding with regard

to the SEC paper in the Department of Botany, the remarks made in his Service Book by the Principal of the Guwahati College is unfounded and the same is stigmatic which would affect his future career. He, therefore, submits that the remarks made in the Service Book of the petitioner be expunged.

6. Mr. N. Deka, learned counsel appearing on behalf of the respondent Nos. 4 & 5, on the other hand, submits that as the petitioner had not submitted the SEC marks on time in terms of the Whatsapp Notification dated 25.07.2022, the petitioner has been removed from the Headship of the Department of Botany, Guwahati College. Thereafter, the Principal of Guwahati College had made the remarks in the Service Book of the petitioner. Accordingly, there is no infirmity in the remarks made in the Service Book of the petitioner and no interference should be made.

7. Mr. P.J. Phukan, learned standing counsel, Gauhati University, submits that the records of the Gauhati University indicates that the SEC paper with regard to the Botany Department in the Guwahati College was submitted on time and no students had suffered and the results also were declared as per schedule.

8. Mr. S. Chakraborty, learned counsel appearing for the respondent No. 6, on the other hand, submits that the reply dated 23.11.2022 made by the petitioner to the show cause notice dated 22.11.2022 would clearly indicate that the petitioner had submitted the SEC marks to the respondent No. 6 only on 17.10.2022, which is much later than the date already specified in the Whatsapp Notification dated 25.07.2022 issued by the Principal of Guwahati College and under such circumstances, the petitioner was removed from the Headship of the Department of Botany and the respondent No. 6 is allowed to hold HoD of Botany Department till date.

9. I have considered the submissions forwarded by the learned counsel for the

parties.

10. This Court has perused the show cause notice dated 21.10.2022 as well as the show cause notice dated 22.11.2022. A perusal of the same clearly indicates that the allegations made against the petitioner in both the show cause notices are identical. Further, the reply made by the petitioner to the show cause notice has already been considered by this Court. In the said reply made by the petitioner on 21.10.2022, it is clearly indicated that the Examination Committee refused to take the practical marks folio of SEC paper on 29.09.2022 and 30.09.2022. Further, in his reply dated 23.11.2022, this Court has noticed that the petitioner has submitted SEC marks as regards the Botany Department to the said Dr. U.K. Chowra, who is the Member of the Examination Committee on 17.10.2022. This would clearly indicate that the petitioner had failed to meet the deadline as specified in the Whatsapp Notification dated 25.07.2022 issued by the Principal of Guwahati College.

11. However, on a perusal of the reply of the RTI made by the Deputy Controller of Examinations, Gauhati University, it is seen that there was no lapses in the marks feeding against the SEC paper with regard to the Botany Department, Guwahati College in the year, 2022 and no students had suffered and results were accordingly declared as per schedule. The reply made by the Deputy Controller of Examinations, Gauhati University is a reply by an independent body and therefore, this Court has no hesitation to accept the remarks made by the Deputy Controller of Examinations, Gauhati University on 29.03.2023 in response to the RTI application made by the petitioner.

12. The insertion of the remarks made by the Principal of Guwahati College in his Service Book of the petitioner has already been quoted hereinabove. What is to be noted is that the petitioner has been removed from the Headship of

Botany Department in the Guwahati College on his failure to meet the deadline as specified in the Whatsapp Notification dated 25.07.2022. However, the Deputy Controller of Examinations, Gauhati University in the RTI reply dated 29.03.2023 has clearly stated that there was no lapse in the marks feedings/sending against SEC paper from the Department of Botany, Guwahati College and that no candidates suffered and results were declared as per schedule.

13. This Court, in view of the reply made by the Deputy Controller of Examinations, Gauhati University, is of the considered opinion that there was no necessity on the part of the Principal of Guwahati College to have made such remarks in the Service Book of the petitioner, which is a stigma and would have an effect in the future career of the petitioner. Accordingly, the remarks made by the Principal of Guwahati College in the Service Book of the Petitioner, which reads as "*Dr. Jintu Sarma is released from the position of Head of the Department of Botany on 28.11.2022 due to a few lapses on his part related to important College examination works*" is expunged.

14. With the above directions, this writ petition is, accordingly, disposed of.

JUDGE

Comparing Assistant