

GAHC010273002023



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

Case No. : WP(C)/7086/2023

- 1: DIPANKAR KALITA AND 20 ORS
S/O- JANMI KALITA, VILL- GARAKA,
P.O. AND P.S.- RANGIA, DIST.- KAMRUP(ASSAM),
PIN- 781354. ROLL NO. 01162787.
- 2: WAHIDA AHMED
D/O- OWAZUDDIN AHMED VILL- FINGUA GAON
P.O.- CHAPARBORI P.S.- SARTHEBARI
DIST. BARPETA PIN- 781352. ROLL NO. 01161196.
- 3: MANASH PRATIM DEKA
S/O- SARAT CH. DEKA VILL- KALITAPARA
P.O.- GANESH KUWARI P.S.- SIPAJHAR
DIST.- DARRANG (ASSAM) PIN- 784145 ROLL NO. 06160209.
- 4: BANDITA KALITA
D/O- CHANDIRAM KALITA VILL AND P.O.- PANITEMA
P.S.- KAMALPUR DIST.- KAMRUP (ASSAM) PIN- 781101
ROLL NO. 3816110.
- 5: MRITUNJAY DEKA
S/O- RAMESH DEKA VILL. AND P.O.- BEZERA
P.S.- BAIHATI CHRIALI DIST.- KAMRUP (ASSAM)
PIN- 781121 ROLL NO. 06160205.
- 6: RUKIA BEGUM
D/O- MUKADDESH ALI VILL- DAMALIJHAR
P.O.- PALHAZI DIST.- BARPETA PIN-781309 ROLL NO. 02160322
- 7: MNJUWARA BEGUM
D/O- ABTUL BATIN AHMED VILL- DEWRIKUCHI
P.O.- SONAKUCHI P.S.- BARPETA DIST.- BARPETA (ASSAM)
PIN- 781314 ROLL NO. 01162294

8: JERINA WAHID
D/O- JAHIRUDDIN AHMED VILL.- KACHARI SOLMARI
P.O. AND P.S.- RANGIA DIST.- KAMRUP(ASSAM) PIN- 781354
ROLL NO. 38161082.

9: JULIMA BEGUM
W/O- EKRAMUL ALAM VILL- KHANDIKAR
P.O.- DEULKUCHI P.S.- TAMULPUR DIST.- BAKSA
PIN- 781354 ROLL NO. 01160153.

10: MINA KUJUR
W/O- ALBIS TIRKEY VILL. BAHBARI
P.O.- KUMARIKATA P.S.- TAMULPUR
DIST.- BAKSA PIN- 781360 ROLL NO. 38161425.

11: CHANDA ROY
D/O- SUBODH ROY VILL.- RUPAHIHAT
P.O.- PURANI TANGLA P.S.- TANGLA
DIST.- UDALGURI PIN- 784528 ROLL NO. 07160768.

12: MOZIDUR RAHMAN BHUYAN
S/O- ROMZAN ALI BHUYAN VILL- OUDUBI PT.-2
P.O.- KHELUPARA P.S.- JORIGHOPA DIST.- BONGAIGAON
PIN- 783371 ROLL NO.- 03160588.

13: JUNAKI TANTI
D/O- PRAHLA TANTI VILL. AND P.O.- SALONA T.E.
P.S.- SAMUGURI DIST.- NAGAON PIN- 782139 ROLL NO. 01163856.

14: GAYATRI SAIKIA
W/O- SURAJIT TAMULI VILL. AND P.O. AND P.S.- JAJORI
DIST.- NAGAON PIN- 782142 ROLL NO. 01164033.

15: ZIYAUR RAHMAN
S/O- HASEN ALI VILL.- PACHIM AMRAKANDA
P.O.- GARAZAN BAZAR P.S.- RUPHIHAT DIST.- NAGAON
PIN- 782128 ROLL NO. - 04160377.

16: JAMINUR RASID
S/O- HARUNAL RASID VILL. AND P.O.- LAILURI
P.S.- RUPAHIHAT DIST.- NAGOAN PIN- 782120 ROLL NO.- 05161826.

17: JESMINA KHATUN
D/O- ABDUL JALIL VILL. AND P.O.- LUCHONABARI
P.S.- MOIRABARI PIN- 781126. ROLL NO.- 04160319.

18: BIJUI ZAHAN SALEHA BEGUM
R/O- KHANAPARA P.O.- KHANAPARA

DIST.- KAMRUP METRO PIN- 781022 ROLL NO.- 01165143.

19: DILIP SAW
S/O- MAHABIR SAW P.O.- KAWLI
P.S.- TAMULPUR DIST.- BAKSA (BTR) ASSAM
PIN- 781360 ROLL NO.- 38161432.

20: JESMINE BEGUM
W/O- SHAFIQUE AHMED R/O- WARD NO. 40
CHRITIANBASTI DIST.- KAMRUP METRO
PIN- 781005 ROLL NO. 07160407.

21: NOOR NISHA
D/O- MD. ALAM R/O- BASISTHA BARPATHAR
MASJID HOUSE NO. 4 DIST.- KAMRUP METRO
PIN- 781029 ROLL NO.- 07160406

VERSUS

1: THE GAUHATI UNIVERSITY AND 2 ORS REPRESENTED BY ITS
REGISTRAR, GOPINATH BORDOLOI NAGAR, JALUKBARI, GHY-14, ASSAM.

2:CONTROLLER OF EXAMINATIONS GAUHATI UNIVERSITY
GOPINATH BORDOLOI NAGAR JALUKBARI GHY-14.

3:THE DIRECTOR INSTITUTE OF DISTANCE AND OPEN LEARNING
GAUHATI UNIVERSITY (GUIDOL) GOPINATH BORDOLOI NAGAR
JALUKBARI GHY-14

Advocate for the Petitioner : MR B KAKATI

Advocate for the Respondent : SC, G U

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 10-01-2024

Heard Mr. B. Kakati, learned counsel for the petitioners. Also heard Mr. P.J. Phukan, learned standing counsel, Gauhati University, representing all the respondents.

The petitioners, by way of instituting the present writ petition, have raised a grievance with regard to denial of them to appear in their respective back papers of MA/M.Sc./M.Com./M.Sc.-IT.

The petitioners had taken admissions into the Master Degree course under the Gauhati University Institute of Distance and Open Learning (GUIDOL) in the year 2016-17. It is the case of the petitioners that they have completed their respective courses but have not cleared papers in different semesters for which their results have not been declared. The petitioners claimed that they be given a further chance to undertake the examination for their respective back papers.

Mr. Phukan has submitted that the petitioners have exceeded the time limit prescribed for undertaking the course. He places on record an order dated 16.02.2023 passed by this Court in Writ Appeal No.3/2023 (**Jyoti Mohan Nath & Ors. -Vs- Gauhati University & Ors.**), wherein a similar issue was raised by the appellants therein.

The Division Bench of this Court, upon consideration of the matter, had dismissed the said writ appeal by holding that the appellants therein having been admitted to their respective Master Degree courses of the year 2016-17 and were permitted 3(three) chances to clear the backlog/semester examinations, which they have failed to do so. The Division Bench rejected the claim made by the appellants and upheld the order dated 04.01.2023 passed by the learned Single Judge in WP(C) No.7211/2022. The conclusions reached by the Division Bench in the case of **Jyoti Mohan Nath** (supra) is extracted herein below for ready reference:-

“10. It is seen that the primary ground urged by the learned counsel for the appellants before us is that there being no time period specified in the prospectus relating to the batch of M.A. and M.Sc. courses of 2016-17 under

the Gauhati University Institute of Distance and Open Learning (IDOL) as compared to similar distance programme conducted under the Dibrugarh University and the Krishna Kanta Handique State Open University.

11. *The learned counsel for the appellants, however, did not support his contentions by any University/UGC/Government Notification to contend that merely because that the prospectus does not specified any time period, the candidates who have enrolled for a particular courses can avail of any number of chances to clear their backlog/semesters exams. The prospectus of any particular course gives an overview of the course, the papers, the facilities offered by the University/Department, fees, the time scheduled for classes etc. It is not disputed by the appellants that UGC Regulations are equally applicable to Gauhati University Institute of Distance and Open Learning (IDOL). It is also not disputed that under the UGC Regulations, the maximum period for a Distance and Open Learning Programme for M.A./M.Sc course is four years. That apart, the respondents categorically averred in their affidavit to the writ petition, that a candidate will be permitted a maximum of three chances to clear the backlog/semesters examinations. The appellants have not denied such specific averments made by the University by referring to any Rules/Regulations/Notification. The mere fact that prior batches were allowed extended time to complete/clear backlog papers/semesters examinations cannot be a ground to confer the same benefit to the appellants as the same are not permitted by the Rules/Regulations. The law is well settled that there can be no negative equality.*

12. *We have given our anxious thoughts to the contentions raised by the parties. We find that the appellants have not been able to make out any case calling for any interference to the Order dated 04.01.2023 passed by the learned Single Judge impugned in the present appeal. The learned Single Judge has considered the matter and has arrived at a finding, which in the facts and circumstances of the present case, we do not find any ground to disagree with the conclusions arrived at by the learned Single Judge in the impugned order dated 04.01.2023 passed in WP(C) No. 7211/2022. Accordingly, we hold that the appeal is bereft of any merit and deserves to be dismissed. The findings arrived at by the learned Single Judge of the impugned Order are sustained.”*

It is seen that the petitioners in the present proceeding are also similarly situated and from the same batch as those involved in the case of Jyoti

Mohan Nath and 4(four) others. Accordingly, following the decision of the Division Bench in ***Jyoti Mohan Nath*** (supra), it is held that the petitioners have no right to claim for an extended time to complete/clear their backlog papers/semesters examination.

Accordingly, the present writ petition stands dismissed being bereft of any merit. However, there would be no order as to cost.

JUDGE

Comparing Assistant