

GAHC010290772023



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

Case No. : I.A.(Civil)/133/2024

PROBIN NARAYAN DEB,
HEAD MASTER OF RAJA AJIT NARAYAN DEV GIRLS M.E. SCHOOL,
BASUGAON, CHIRANG,
DISTRICT- CHIRANG, ASSAM,
PIN- 783372.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT, GUWAHATI-6.

2:THE DIRECTOR OF EDUCATION
BTC
KOKRAJHAR
ASSAM
PIN- 783370.

3:THE INSPECTOR OF SCHOOLS
CHIRANG DISTRICT CIRCLE
KAJALGAON
BTAD
ASSAM

PIN- 783385.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
CHIRANG
KAJALGAON
ASSAM
PIN- 783385.

5:PROBIN NARAYAN DEB
HEAD MASTER OF RAJA AJIT NARAYAN DEV GIRLS M.E. SCHOOL

BASUGAON
CHIRANG

DISTRICT- CHIRANG
ASSAM

PIN- 783372.

6:DIPAK KUMAR BHAGAT

S/O- LATE RAM PRASHAD BHAGAT
R/O- BASUGAON
WARD NO.-4
BTC
ROAD
P.S.- BASUGAON
DIST.- CHIRANG
BTR
ASSAM
PIN -783370

Advocate for the Petitioner : MS. F KHAN

Advocate for the Respondent : MR. M U MAHMUD

Linked Case : WP(C)/3920/2023

DIPAK KUMAR BHAGAT
S/O- LATE RAM PRASHAD BHAGAT

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Advocate for : MR. M U MAHMUD

Advocate for : SC

ELEM. EDU appearing for THE STATE OF ASSAM AND 4 ORS.

B E F O R E
HON'BLE MR. JUSTICE KARDAK ETE

20.02.2024

Heard Ms. M. Glory, learned counsel for the applicant. Also heard Mr. M.U. Mahmud, learned counsel for the opposite party/writ petitioner.

2. By filing this interlocutory application, the applicant/respondent no. 5 has prayed for modification/vacation/alteration of the order dated 20.11.2023 passed by this Court in WP(C) 3920/2023, by which the applicant has been restrained from being the Headmaster of Raja Ajit Narayan Dev Girls' ME School, Basugaon, which is reproduced herein below:-

4. Although, we have given an opportunity to the respondents to respond as to whether the B.SC General degree of the respondent No.5 is acceptable under the law, no further material is produced other than Mr. RK Musahary, learned counsel for the BTC referring to a communication dated 30.07.2020 from the District Elementary Education Officer, Chirang wherein it is provided that upon corresponding with Shobhit University, they had verified and informed that the certificates of respondent No.5 are genuine. The question is not whether the certificate had been genuinely issued. The issue is as to whether the Shobhit University under the law can give a B.Sc. General degree through the distance education mode. No material is made available. In the event, the B.Sc. General degree of the respondent No.5 is unacceptable in law, we have to understand that the respondent No.5 does not have the authority of law to be the Headmaster of the school.

5. In view of the prima facie case being made out, it is directed that the respondent No.5 Probin Narayan Deb be restrained from being the Headmaster of Raja Ajit Narayan Dev Girls' ME School, Basugaon until further order(s). Further order(s) would be considered upon the respondents producing relevant material before the Court to arrive at any conclusion as to whether the B.Sc General degree issued by the Shobhit University under the Distance Education Mode would be acceptable under the law.

3. The grievance projected by the petitioner in the writ petition is that the applicant/respondent no. 5 has been appointed as Headmaster of Raja Ajit Narayan Dev Girls' ME School, Basugaon, though, the B.Sc. General degree obtained is not a valid degree. The B.Sc General degree obtained by the respondent no. 5 has been issued by the Shobhit University, which has been derecognized in the year 2013-2014.

4. It is noticed that this Court passed the above interim order on the ground that although, an opportunity was provided to the respondents to respond as to whether the B.SC General degree of the respondent No.5 is acceptable under the law, no further material was produced except the communication dated 30.07.2020, wherein, it is provided that upon corresponding with Shobhit University, they had verified and informed that the certificates of respondent No.5 are genuine. According to this Court, the question is not whether the certificate had been genuinely issued. The issue is as to whether the Shobhit University under the law can give a B.Sc. General degree through the distance education mode. This Court found that no material was made available and in the event, the B.Sc. General degree of the respondent No.5 is unacceptable in law, same has to be understood that the respondent no. 5 does not have the authority of law to be the Headmaster of the said school. Accordingly, the respondent No.5 Probin Narayan Deb has been restrained from being the Headmaster of Raja Ajit Narayan Dev Girls' ME School, Basugaon until further order(s). This Court further observed that further order will be considered upon the respondents producing relevant material before the Court to arrive at any conclusion as to whether the B.Sc General degree issued by the Shobhit University under the Distance Education Mode would be acceptable under the law.

5. Having considered the submissions made by learned counsel for the parties and having perused the materials placed before this Court, I find that the UGC has de-recognized the Distance Education Mode of Shobhit University in the year 2013/2014. The applicant/respondent no. 5 was enrolled in the year 2013 and he continued to pursue the course in Distance Education Mode in the said University. Since, the discontinuation was prospective in nature, the applicant/respondent no. 5 was allowed to continue. Accordingly, the degree was issued in the year 2015.

6. The University Grants Commission (Open and Distance learning Mode) 2020 also provides that admission taken in a recognized programme under Open and Distance Learning mode and/or Online mode during the recognition period stands recognised till the completion of programme, even if the Higher Educational Institution does not have recognition for further years, provided the programme is offered as per the UGC norms of territorial jurisdiction and in conformity with the extant guidelines and/or UGC regulations and regulations of respective regulatory bodies.

7. This Court also takes note of the fact that the interim order dated 20.11.2023 has been passed by this Court on non-production of the materials for consideration of the issue in the writ proceedings. It has also been observed that further progress would be passed on the basis of the materials that may be produced by the respondents.

8. Having considered the fact that the applicant/respondent no. 5 has obtained the degree B.Sc General degree from Shobhit University in the year 2015 after being enrolled in the year 2013 and the UGC Regulation, 2020 provides that admission taken in a recognized programme under open and distance learning mode during recognition period stands recognized till the

completion of programme, I deem it appropriate to vacate the interim order dated 20.11.2023. Accordingly, the interim order dated 20.11.2023 to the extent of restraining the applicant/respondent no. 5, Probin Narayan Deb, stands vacated.

9. It is made clear that the observation of Court in the present interlocutory application is the prima facie view of this Court subject to the final determination after consideration of the entire matter in the writ petition. This I.A. stands allowed and disposed of.

JUDGE

Comparing Assistant