

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No. 253 of 2025**

Justice (Retired) Alok Baran Pal
S/o. Late Dina Nath Pal,
Resident of 293, TG. Road, Krishnanagar,
Agartala, P.O- Agartala, P.S- West Agartala,
District- West Tripura, PIN-799001.

-----Petitioner

Versus

1. **The State of Tripura**

To be represented by the Chief Secretary,
Government of Tripura, New Secretariat Complex,
Kunjaban, Agartala, West Tripura, PIN :799010.
2. **The Secretary,**

Higher Education,
Govt. of Tripura, New Secretariat Complex,
Kunjaban, Agartala , West Tripura, PIN- 799010.
3. **The Director**

Higher Education, Govt. of Tripura,
Office lane, Agartala, West Tripura, PIN-799001

.....Respondents.

For the Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate. Ms. S. Debbarman, Advocate.
For the Respondent(s)	:	Mr. R. Datta, Advocate.
Date of hearing	:	16.05.2025.
Date of delivery of Judgment & Order	:	16/ 05/2025.
Whether fit for reporting	:	YES

BEFORE
HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (Oral)

This present petition has been filed under Article 226 of the Constitution of India seeking the following reliefs:-

- "i. Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders. direction/ directions of like nature shall not be issued whereby directing the Respondents to implement the order of the Hon'ble Supreme Court in Islamic Academy of Education versus the State of Karnataka and others [(2003) 6 SCC 697]. Para 20 to pay to the Petitioner remuneration for holding the post of Chairman of the Private Technical institutions fee structure Regulatory Committee, w.e.f. 01.12.2018.*
- ii. AND IN THE INTERIM as the Petitioner is still in office as Chairman of the said committee, to start payment of remuneration every month for the current period till disposal of the case.*
- iii. Call for the records pertaining to the instant writ petition from the custody of the Respondents and make the Rules absolute after hearing the both sides.*
- iv. Make the Rules absolute after hearing the Parties".*

[2] Heard Mr. P. Roy Barman, learned senior counsel assisted by Ms. S. Debbarman, learned counsel appearing for the petitioner. Also heard Mr. R. Datta, learned counsel appearing for the respondents-State.

[3] Mr. Roy Barman, learned senior counsel submits before this Court that the petitioner has earlier served as District Judge, later elevated as Judge of the Gauhati High Court and retired on 31.01.2008. After his retirement, he was appointed as the president of the State Consumer Disputes Redressal Commission of the State of Tripura with pay and allowance of a High Court Judge reduced by pension. It is pertinent to mention here that in the same year petitioner herein was also appointed as Chairman of National Security Advisory Board at Tripura and, thereafter, on 10th June, 2010 he was also appointed as Chairman of Educational Fee

Regulatory Committee of five members committee to govern the matters pertaining to fixation of fees in the private technical institution in Tripura which was formed in compliance with the direction of Hon'ble Supreme Court of India as decided in Islamic Academy of Education versus State of Karnataka.

[4] He further submits that from 10th June 2010 to 30th November 2018, he held other remunerative positions viz., President of State Consumer Commission, followed by Chairperson Police Accountability Commission and Chairman NASA Advisory Board. During that period he did not claim any remuneration and/or allowances for his position as Chairman of Fee Regulatory Committee.

[5] As he ceased to hold any remunerative posts after 30.11.2018, he raised his claim for remuneration and allowances for the position he held as Chairman of the Fee Regulatory Committee with effect from 01.12.2018.

[6] In this regard, he made representations dated 06.07.2018 and 12.10.2022. But, the same were rejected by the Director and Addl. Secretary, Higher Education Department, Govt. of Tripura by a letter dated 06.05.2023. Thereafter, once again the petitioner addressed the concerned respondent on 02.11.2023.

[7] He also submits that the Director of Higher Education, Govt. of Tripura by a letter dated 06.05.2023 informed the petitioner that Hon'ble High Court of Tripura in the year 2016 recommended the name of a retired Judge of Calcutta High Court namely Justice Jayanta Kumar Biswas, to be Chairman of the proposed reconstituted committee and Justice Biswas gave his consent in 2016 itself. The fact remains that though there was recommendation to that effect and acceptance by Justice Biswas, in reality the five-member committee headed by him was never reconstituted. As a consequence, the committee headed by him continues till today. Thus, he is

entitled for remunerations from December 2018 to till date. Therefore, the petitioner is before this Court and prays to allow the writ petition as prayed for.

[8] Mr. R. Datta, learned counsel appearing for the respondents-State contends that the matter is barred by law of limitation. He submits that the initial nomination of the petitioner by a memo was in the year 2010 and he could have approached this Court in the year 2018 soon after his ceasure of all other posts. But after a gap of seven long years now in May 2025 he approached this Hon'ble Court, which is not maintainable at all on the ground of *laches*.

[9] He further submits that without there being any specific terms and conditions of service agreement, official gazette notification or any appointment order, only on the strength of a memo one cannot claim remuneration. There is an offer and deemed acceptance but no consideration, no clear terms of conditions, responsibilities, facilities indicated. Also no notification is issued. Hence, he urges before this Court to dismiss this present petition as misconceived.

[10] Heard both sides.

[11] The relevant portion of the Judgment of the Hon'ble Supreme Court titled as Islamic Academy of Education and Another vs. State of Karnataka and Ors, reported in (2003) 6 SCC 697 is extracted herein below:-

(a) *"Para. 20. Our direction for setting up two sets of Committees in the States has been passed under Article 142 of the Constitution of India which shall remain in force till appropriate legislation is enacted by Parliament. The expenses incurred on the setting up of such Committees shall be borne by each State. The infrastructural needs and provision for allowance and remuneration of the Chairman and other members of the Committee shall also be borne by the respective State Government."*

(b) In pursuance thereof, the respondents issued a memo dated 10.06.2010 which is extracted as under:-

"GOVERNMENT OF TRIPURA
EDUCATION (HIGHER) DEPARTMENT
F2(321-XXVIII-DHE/GTCA/2010/803/ (7) June 10.2010
MEMO

In a judgement of the Supreme Court of India in Islamic Academy of Education vs. the State of Karnataka and others, it has been directed to constitute a committee headed by a retired High Court judge in each state to govern the matter of fixation of fees in private Technical Institutions. Accordingly, the Governor of Tripura is pleased to constitute the following committee for determination of fee structure in respect of Private Technical Institution in the state of Tripura.

- 1) Hon'ble Judge (Rtd). Sri A. B. Pal- Chairman
- 2) One representative of the AICTE, New Delhi -Member
3. A Chartered Accountant to be nominated by the Chairman-Member
4. Sri Mihir Deb, a person of repute in the field of Higher Education-Member
5. Principal Secretary, Higher Education, Govt. of Tripura -Member Secretary

By order of the Governor
(K. Amouly)

Special Secretary to the Government of Tripura....."

(c) Later, upon the request of the petitioner to pay remuneration which was made on 06.07.2018 and 12.10.2022, the respondent vide letter dated 06.05.2023 rejected the claim of the petitioner. The same is extracted herein below:-

"No.F. 2(321-XXVII)-DHE/GTCA/22/1219
GOVERNMENT OF TRIPURA
EDUCATION (HIGHER) DEPARTMENT
Dated, Agartala the 06/05/2023.

To
Hon'ble Mr. Justice A.B. Paul (Rtd).
Former Judge, Gauhati High Court.

Sub: Claim of Remuneration and/or Pay and Allowances for appointment as Chairman of Regulatory Committee for finalisation of Appointment procedure, fee structure of private educational Institutions.

Sir.

I am directed to refer to your letter No.F. 1(1)/FRC/22 dated 12th October, 2022 on the subject mentioned above and to inform you that the matter has been examined by the Department. It appears that following the Judgment of the Hon'ble Supreme Court of India in Islamic Academy of Educational Institution versus The State of Karnataka and others, a committee was initially constituted under your Chairmanship to govern the matter of fixation of fees in Private Technical Institutions vide this Department's Memo No.F.2 (321-XXXVIII)-DHE/GTCA/2010, dated 10th June, 2010.

2. Thereafter, the Hon'ble High Court of Tripura vide their letter No. F.22(28)-HC/2016/958-59, dated Agartala, the 19th January, 2016 has informed that the Hon'ble Chief Justice and His Lordship has nominated the Hon'ble Mr. Justice Jayanta Kumar Biswas as Head of the Regulatory Committee mentioned above. Mr. Justice Jayanta Kumar Biswas, Retired Judge, Calcutta High Court vide his letter dated 15th February, 2016 has given his consent to act as the Chairman of the above mentioned committee.

3. Before nomination of Mr. Justice Jayanta Kumar Biswas, Rtd Judge, Calcutta High Court as Chairman of the Committee, you had been holding the position of Chairman of the Regulatory Committee as well as other remunerative positions under the Government as intimated by you. So there was no scope for remuneration and/ or allowances.

Under the positions mentioned above, after nomination of Mr. Justice Jayanta Kr. Biswas as Chairman of the Committee it appears that there is hardly any scope for the Department to adhere to your present claim, since the Committee constituted earlier has no existence.

Yours faithfully

(N.C. Sharma)
Director & Addl. Secretary Higher
Education Department."

(d) It is evident from above letter that the High Court has recommended the name of the Justice Jayanta Kumar Biswas as Chairman of Regulatory Committee for finalization of Appointment procedure, fee structure of Private Educational Institutions. Thereafter, Justice Jayanta Kumar Biswas has also gave his willingness on 15.02.2016.

(12) In view of the above, it is deemed that the services of the petitioner is not warranted. It cannot be said that because the committee was not reconstituted and it did not come into effect the earlier committee to which petitioner is Chairman still exists and the petitioner is entitled for remuneration .

[13] The memo dated 10.06.2010 and the assignment given to the petitioner is honorary and it is not a regular appointment which is said to be governed by service rules. On the day when Justice Jayanta Kumar Biswas has given his willingness, the petitioner cease to exist as Chairman. Moreso, the petitioner being a retired Judge in all his wisdom ought to have relieved himself in view of the said development.

[14] Moreso, when the petitioner made a request for remuneration on 06.07.2018 as there was no response from respondents, and no allowances and no payments were made to all through, he could have agitated in 2018 itself or resigned to the said position of the committee with dignity. Instead agitating for remuneration to which he is not entitled cannot be appreciated. The Apex Court in its Judgment made the provision of Committee but all other procedure and formalities was at the realm of States.

[15] This Court feels that the memo dated 10.06.2010 which the petitioner placed before this Court is only an instruction. The petitioner also approached this Court after 07(seven) long years and is hit by *laches* and regarding the appointment, the petitioner failed to produce any terms and

condition of service or Official Gazette notification to say that there was any legitimate expectation and this is a chance litigation.

[16] This Court *prima facie* feels that the petitioner has not made out his case to entertain the instant writ.

[17] This Court has all concern and respect for the petitioner who is a retired Judge but the relief sought for cannot be granted for the discussion made above.

[18] In view of the above, the writ petition is liable to be dismissed.

Accordingly, the instant writ petition stands dismissed. As a sequel, miscellaneous application(s), pending if any, shall stand closed.

JUDGE



Paritosh

Digitally
signed by
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SACHI
GHOSH
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