GAHC010227082019

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

Case No. : WA/151/2020

SRI PANKAJ MECH
SON OF SRI SARBESWAR MECH, RESIDENT OF VILL.- PODUMONI, P.O.- BHADOI PACHALI, P.S.-DULIAJAN, DIST.- DIBRUGARH, ASSAM, PIN- 786191.

VERSUS

THE OIL INDIA LTD. AND 5 ORS.
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER, FIELD HEAD QUARTER, OIL DULIAJAN, P.O. AND P.S. DULIAJAN, DIST.- DIBRUGARH, ASSAM, PIN-786602.

2:THE GENERAL MANAGER (ER)
FIELD HEAD QUARTER
OIL DULIAJAN
P.O. AND P.S. DULIAJAN
DIST.- DIBRUGARH
ASSAM
PIN- 786602.

3:THE DEPUTY GENERAL MANAGER (ER)

OIL DULIAJAN
P.O. AND P.S. DULIAJAN
DIST.- DIBRUGARH
ASSAM
PIN- 786602.

4:THE CONTROLLER OF EXAMINATION
KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY
PATGAON
RANI
GUWAHATI
DIST.- KAMRUP(M)

ASSAM
PIN- 781017.

5:THE PRINCIPAL
DULIAJAN COLLEGE
P.O. AND P.S. DULIAJAN
DIST.- DIBRUGARH
ASSAM
PIN- 786602.

6:SRI NABAJYOTI SARMA
OFFICE ASSISTANT
DULIAJAN COLLEGE STUDY CENTRE
KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY
DULIAJAN COLLEGE
P.O. AND P.S. DULIAJAN
DIST.- DIBRUGARH
ASSAM
PIN- 786602

Advocate for the Petitioner : MR. U K NAIR

Advocate for the Respondent : SC, OIL

BEFORE
HON'BLE THE CHIEF JUSTICE (ACTING) MR. N. KOTISWAR SINGH
HON'BLE MR. JUSTICE MANISH CHOUDHURY

:: O R D E R ::

09.12.2020
[N. Kotiswar Singh, CJ(Acting)]

Heard Mr. U. K. Nair, learned senior counsel assisted by Mr. M.P. Sarma, learned counsel for the appellant. Also heard Mr. S. N. Sarma, learned senior Standing Counsel, Oil India Limited assisted by Mr. K. Kalita, learned counsel appearing for respondent Nos. 1 to 3.

2. Though service is not yet complete in respect of respondent Nos. 4 and 6, we are of the view that disposal of this writ appeal at this stage without hearing them will not cause any prejudice to them.

3. The present writ appeal has been preferred by the writ petitioner against the order dated 02.08.2019 passed by the learned Single Judge in WP(C) No. 5431/2019 being aggrieved of the dismissal of the writ petition.

4. The writ petition, WP(C) No. 5431/2019 was dismissed on the ground that the petitioner knew whether he had passed the BA examination or not and submission of fake certificate amounts to a fraudulent act and such conduct cannot be appreciated and accordingly, the learned Single Judge did not interfere with the communication dated 29.05.2019 issued by the Oil India Limited cancelling the provisional selection of the petitioner for the post of Multi Tasking Drilling Crew 'Trainee', Grade-V and debarring him from future employment in OIL India Limited (OIL).

5. On the other hand, it has been submitted by Mr. Nair, learned senior counsel for the appellant that while making such an observation, the learned Single Judge did not take into consideration and appreciate the letter written by Principal (i/c) of Duliajan College, Duliajan to the General Manager, ER Department, Oil India Limited on 05.05.2018, in which it has been mentioned that the petitioner cleared his examination till 5th Semester, but in the 6th Semester or final examination, he got back in two subjects and could not clear the exam. However, surprisingly this was not communicated to him and the clerk of the Centre issued him a false pass certificate declaring that he had cleared the exam. The letter further states that the internal investigation had found only Mr. Nabajyoti Sharma to be the culprit and not Mr. Pankaj Mech, the present appellant, and the erring clerk had himself admitted to have committed the offence.

6. Further, it has been also submitted that another letter written by the Deputy Registrar (Examination), KKHSOU on behalf of the Controller of Examinations, KKHSOU on 01.04.2019 to the similar effect had not considered by the learned Single Judge, which could have tilted the balance in favour of the writ petitioner (appellant) inasmuch as the petitioner was himself the victim of fraudulent act by the College authorities and he was not a party to it.

7. We do not wish to make any observation as to the correctness or otherwise of the said submission advanced by the learned counsel for the appellant. However, we are of the view that, since the aforesaid two letters were not considered by the learned Single Judge at the time of passing the impugned order, that aspect can be looked into by the learned Single

Judge after hearing all the parties in this regard.

8. We accordingly, allow this writ appeal and set aside the impugned order dated 02.08.2019 passed in WP(C) No. 5431/2019 and remand the matter to the learned Single Judge for hearing afresh after serving notice to all the respondents.

9. The writ appeal is, accordingly, disposed of.

JUDGE **CHIEF JUSTICE (ACTING)**

Comparing Assistant