

25.06.2024

Sl. No.175

Ct. No.24.

s.g.

WPA/22777/2022

Dr. Parthasarathi Roy

Vs.

**The West Bengal University of Health
Sciences & Ors.**

Mr. B.P. Subba,
Ms. Nilanja Adhya,
....for the petitioner.

Mr. D.N. Maiti,
Mr. Asumdipta Santra,
....for the respondent Nos. 1 & 2.

Mr.Suman Banerjee
....for the respondent No. 7.

The present petitioner is a associated Professor of Ophthalmology and was posted as a resident Medical Officer cum Clinical Tutor in Regional Institute of Ophthalmology, Medical College, Calcutta. Respondent no.7 is post graduate trainee in M.S. (Ophthalmology) in the sessions of 2020 – 2023 in the Regional Institute Ophthalmology Calcutta Medical College.

The present petitioner was engaged as a guide of respondent no.7 in her research in Master degree. It is the case of the present petitioner that during his engagement as a guide of respondent no.7 both of them were performing well about the assigned subject which was specifically expounded and invented by the own accord of the present petitioner which he termed as a “brain child” of the petitioner. Thereafter, present petitioner on 6.7.2021 was transferred

from Calcutta Medical College to Calcutta National College as associated Professor.

It is the case of the present petitioner during the April 2022 by the telephonic conversation (whatsapp chat) it appears that respondent no.7 has almost completed thesis. Suddenly, on 10.5.2022 the respondent authority has passed an order whereby they changed the present petitioner as a guide of respondent no. 7 and engaged one Dr. Ashim Kumar Ghosh as a new guide with a co-guide Dr.Tania Roy Bhadra. The impugned order was came to know to the petitioner only on 15th September, 2022; on the next day, he made a representation to the respondent authority for revocation of the impugned order. Since, the responder authority did not respond to the representation hence the instant writ petition was filed seeking necessary direction upon the respondent authority to cancel or revoke the impugned order dated 10.5.2022.

Learned Counsel for the petitioner submits that the impugned order passed by the concerned authority is illegal in the eye of law. The memorandum dated 1st March, 2019 of the West Bengal University of Health Sciences makes it clear that after the engagement of the guide no prayer for change of title of the research proposal and the supervisor will be granted by the University. He has also mentioned relevant provisions, wherein the supervisor can be changed; they are as follows :

"11. Request for change of research supervisor shall be entertained only in following cases with approval from the University through proper channel :

a. Research guide left service of the University.

b. By mutual consent of both the previous and prospective research guide and the research scholar, the University may allow change of guide, if necessary, with approval of the Vice-Chancellor. The prospective research guide must apply to the University through proper channel with consent of Head of the department and Head of the Institute where he/she will supervise candidates for PH.D. programme.

c. Death of the supervisor/ Retirement of supervisor.

12. It should be the responsibility of PH.D guide and college/recognized Ph D research centre to inform the university in writing, once the guide ceases to be guide ceases to be guide after attaining maximum age limit/resignation absence from working due to any other reason. It shall also be duty of the college/institution concerned to inform regarding transfer/ retirement/resignation of any Ph D guide to the University.

13. Whenever Research supervisor of a candidate leaves service or retires from service, Ph. D scholar already admitted under such guide may be allowed to continue work under him/her provided such guide communicate to the university in writing stating his willingness to continue with the said PH D scholar. The decision regarding this has to be approved by the vice-chancellor.

The Change of Guide/Co-Guide : Shall be considered under special circumstances with proper permission from the University and the candidate has to choose a new Guide in accordance with the Ph D Rules and Regulations.

The Circumstances are as follows :

- a. Sudden death/Demise/Disease***
- b. Reluctance of Guide or Co-Guides***
- c. Going Abroad.***
- d. If the Guide joins another institution, not affiliated to this University, the candidate should inform to the University about the transfer of the existing Guide along with the consent letter from the new Guide. The candidate has to apply and will be considered after due verification of the representation submitted by the candidate subject to the approval by higher authorities/Vice-chancellor.***

The candidate should send a request letter to the University stating the reason for the change of Guide duly acknowledged and forwarded by the existing Guide along with the consent from the new Guide”.

Learned Counsel for the petitioner submits, in the present case, the criterion mentioned in the guideline has not been followed by the University concerned. The present petitioner has only transferred from Calcutta Medical to Calcutta National Medical College which is within very short distance. So the research work may easily be continued. The present petitioner was not transferred to any

another University. Thus in this case order passed by the concerned authority is illegally in the eye of law. He prayed for setting aside the impugned order as well as necessary direction upon the respondent no.7 so that her research work may not be published.

During the course of argument the petitioner has submitted that the entire research work was prepared by the present petitioner and the proposed tutor for the thesis and entire paper work has been conducted by the present petitioner, but at the time of submission of thesis the respondent no.7 did not mentioned the present petitioner as co-author. He submits that the conduct of the respondent no.7 is illegal in the eye of law which can be termed as plagiarism.

Learned Counsel appearing on behalf of the respondent authority used a report in the form of affidavit and submitted that, research work was commenced on January 2021. The respondent no. 7 is required to complete the said thesis by 30th June, 2022. The present petitioner was transferred to the Calcutta National Medical College. Thus the respondent no.7, that is, the student felt difficulty to complete thesis without being proper guided by the petitioner. It is the positive case of the respondent nos. 1 to 3 that the prayer of respondent no.7, the research guide has been changed and Professor Dr. A.K. Ghosh with a Co-Guide was appointed. It is the sole contention of the learned Counsel appearing on behalf of the State authority that benefit of the student providing guide is the sole consideration of the University, in this case as the

petitioner was transferred to different campus. Thus respondent no.7, student feels difficulty and the application was filed. He submits no illegality or biasness was done on behalf of the State respondent.

Respondent no.7 use affidavit-in-opposition against the writ application and admitted that she has already completed research and submitted the thesis on a topic "*A study on seasonal change properties on tears*". She also admitted, initially she started his research work in the year 2021 with the present petitioner, thereafter as the present petitioner was transferred to another campus; she feels necessity to change the Guide. Accordingly, on her prayer Professor Dr. A.K. Ghosh and Dr. Tania Roy Bhadra was appointed as Guide by the Institute.

It is the case of the respondent no .7 that during the guidance of the present petitioner the respondent no.7 has took assistance from the petitioner, but all research work was actually conducted by the respondent no.7 herself. After submission of the research work, the same became intellectual property of respondent no. 7 as the sole author. It is further case of the respondent that the present petitioner cannot claim intellectual property right over the research work conducted and submitted by the respondent no.7. It is further case of the respondent no.7 that in similar circumstances where the guides are transferred to different campus, the new guide are usually engaged for smooth completion of thesis work for the interested students.

Heard the learned Counsel, perused the entire matter and relevant provisions of statute. In this writ petition order dated 10.5.2020 regarding the change of Guide of respondent no.7 is under challenge. At present, the respondent no.7 has already submitted her thesis so the impugned order of change of Guide became infructuous.

I find no justification to set aside the impugned order dated 10.5.2022 at this juncture.

Now considering the submission on behalf of the present petitioner regarding the using his thesis work, petitioner placed a copy of proposed research work under the title "*Study of seasonal changes of properties of tears*". He also placed the thesis paper of respondent no.7, with a positive argument that both the works are same.

This Court feels difficulty to assess the entire medical papers which is beyond technical knowledge of this Court, moreover, this is out of ambit of this writ petition.

The respondent no. 7 demonstrated that she has already mentioned the name of the petitioner in her research paper; thus, the prayer for giving due credit to the petitioner in the Research Paper become meritless. However, present petitioner is at liberty to submit his grievance through specific application to the appropriate authority for proper redress.

Considering the all aspects, I find no justification to pass any order in favour of the present petitioner as the writ petition is devoid of merits. Hence the writ petition is disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(Subhendu Samanta, J.)