GAHC010244642026

2026:GAU-AS:17200

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

Case No. : CRP(IO)/574/2026

THE GAUHATI UNIVERSITY AND 2 ORS
REPRESENTED BY ITS REGISTRAR, GOPINATH BARDOLOI NAGAR, JALUKBARI, GUWAHATI, ASSAM - 781014.

2: THE JOINT REGISTRAR IN-CHARGE
GOPINATH BARDOLOI NAGAR
JALUKBARI
GUWAHATI
ASSAM - 781014.

3: THE DEPUTY REGISTRAR
GOPINATH BARDOLOI NAGAR
JALUKBARI
GUWAHATI
ASSAM - 781014

VERSUS

SRI NAYAN AKASH BORA AND 11 ORS
S/O SRI KARUN BORA, PERMANENT RESIDENT OF NO. 2, SENCHOWA, DISTRICT GOLAGHAT, ASSAM - 785621.

2:THE VICE-CHANCELLOR
GAUHATI UNIVERSITY
BEING THE APPELLATE AUTHORITY UNDER THE LYNGDOH COMMITTEE RECOMMENDATIONS
2006GOPINATH BARDOLOI NAGAR
JALUKBARI
GUWAHATI
ASSAM - 781014.

3:DR RANJAN KUMAR KAKOTY
SECRETARY
UNIVERSITY CLASSES

GAUHATI UNIVERSITY
GOPINATH BARDOLOI NAGAR
JALUKBARI
GUWAHATI
ASSAM - 781014.

4:PROFESSOR SANJAY KUMAR SINGH
RETURNING OFFICER
POST GRADUATE STUDENTS UNION PGSU ELECTION 2026-2027
GAUHATI UNIVERSITY
DEPARTMENT OF LIBRARY AND INFORMATION SCIENCE
GAUHATI UNIVERSITY
GUWAHATI - 781014
ASSAM.

5:PROFESSOR JAYANTA KRISHNA SARMAH
CHAIRPERSON
GRIEVANCES REDRESSAL CELL GRC
PGSU ELECTION 2026-2027
GAUHATI UNIVERSITY
DEPARTMENT OF POLITICAL SCIENCE
GAUHATI UNIVERSITY
GUWAHATI - 781014
ASSAM.

6:PROFESSOR PADMINI BHUYAN BORUAH
MEMBER
GRC
PGSU ELECTION 2026-2027
DEPARTMENT OF ENGLISH LANGUAGE TEACHING
GAUHATI UNIVERSITY
GUWAHATI - 781014
ASSAM.

7:DR RUPAMJYOTI NATH
MEMBER
GRC
PGSU ELECTION 20262027
GAUHATI UNIVERSITY
GUWAHATI - 781014
ASSAM.

8:SMTI ROMANCHITA CHOUDHURY
MEMBER
GRC
PGSU ELECTION 2026-2027
C/O- DEPARTMENT OF PHYSICS
GAUHATI UNIVERSITY

GUWAHATI - 781014
ASSAM.

9:SRI BIPLAB TANTI
MEMBER
GRC
PGSU ELECTION 2026-2027
C/O- DEPARTMENT OF PERFORMING ARTS
THEATRE STUDIES AND ACTING
GAUHATI UNIVERSITY
GUWAHATI - 781014
ASSAM.

10:PROFESSOR PARTHA PRATIM BARUAH
DEPARTMENT OF BOTANY
GAUHATI UNIVERSITY
GUWAHATI - 781014
ASSAM.

11:PROFESSOR BANTI TIRU
DEPARTMENT OF PHYSICS
GAUHATI UNIVERSITY
GUWAHATI - 781014
ASSAM.

12:SRI MADHURJYA PLABAN TALUKDAR
R.C.C. 04 BOYS HOSTEL
GAUHATI UNIVERSITY
GOPINATH BARDOLOI NAGAR
JALUKBARI
GUWAHATI
ASSAM - 781014

Advocate for the Petitioner : MR. P J PHUKAN, MR. R A SHEIKH,MR. K N CHOUDHURY,S R ALOM,SC, G U

Advocate for the Respondent : R K SHARMA, FOR CAVEATOR

:: PRESENT ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Petitioners : Mr. K.N. Choudhury,
Senior Advocate.
Mr. P.J. Phukan,
Advocate.

For the Respondent: Mr. S. Sarma,
Senior Advocate.
Mr. A. Gautam,
Advocate.

Date of Hearing : 10.11.2026.
Date of Judgment : 20.11.2026.

JUDGMENT AND ORDER (CAV)

Heard Mr. K.N. Choudhury, the learned senior counsel assisted by Mr. P.J. Phukan, the learned counsel appearing for the petitioners. Also heard Mr. S. Sarma, learned senior counsel assisted by Mr. A. Gautam, the learned counsel representing the sole respondent.

2. This is an application under Article 227 of the Constitution of India challenging the order dated 13.10.2026 passed by the learned Civil Judge (Sr. Divn.) No.3, Kamrup (M) at Guwahati in Misc. (J) Case No.1359/2026 arising out of Title Suit No.713/2026.

3. The respondent is a student of Gauhati University. He is pursuing Master of Arts in the Department of Gender and Women's Studies. Prior to that, he was pursuing his Master of Arts programme in the Department of Folklore Studies. He did not continue that programme since he got admitted to Masters of Arts in the Department of Gender and Women Study.

4. The respondent filed his nomination papers for election of General Secretary of the Post Graduates Union of Gauhati University. For certain reasons, his nomination papers was rejected. He approached the Grievance Redressal Cell of the University. The prayer of the respondent was rejected by this forum also. The respondent filed an appeal before the Head of the Institution i.e. the Vice Chancellor of Gauhati University.

5. Thereafter, the respondent filed the suit T.S. 713/2026 praying for certain reliefs. Along with the plaint, the respondent filed a petition under Order 39 Rule 1 and 2 of the Code of Civil Procedure.

6. The trial court allowed the prayer of the respondent and hence, the present petition under Article 227 of the Constitution of India has been filed challenging the injunction order dated 13.10.2026 passed by the learned Civil Judge (Sr. Divn.), No.3, Kamrup(M) at Guwahati in Misc.(J) Case No.1359/2026.

7. Appearing for the respondent, Mr. Sarma has submitted that this petition, under Article 227 of the Constitution of India, is not maintainable because an appeal lies under Order 43 Rule 1(r) of the Code of Civil Procedure. Mr. Sarma has relied upon three judgments of the Supreme Court to buttress his point.

8. In *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai v. Tuticorin Educational Society, (2019) 9 SCC 538*, the Hon'ble Supreme Court has held as under:

> "13. Therefore wherever the proceedings are under the Code of Civil Procedure and the forum is the civil court, the availability of a remedy under the CPC, will deter the High Court, not merely as a measure of self-imposed restriction, but as a matter of discipline and prudence, from exercising its power of superintendence under the Constitution. Hence, the High Court ought not to have entertained the revision under Article 227 especially in a case where a specific remedy of appeal is provided under the Code of Civil Procedure itself."

9. In *Mohd. Ali v. V. Jaya, (2022) 10 SCC 477*, the Apex Court has held as under:

> " 17. Even otherwise and as observed hereinabove, against the ex parte judgment and decree, the remedy by way of an appeal before the First Appellate Court was available. Therefore, the High Court ought not to have entertained the revision application under Section 115 of CPC and under Article 227 of the Constitution of India. The High Court ought not to have entertained such a revision application challenging the ex parte judgment and decree. Once there was a statutory alternative remedy by way of an appeal available to the defendants, the High Court ought not to have entertained a writ petition or revision application under Article 227 of the Constitution of India."

10. In *P. Suresh v. D. Kalaivani, (2026) 7 SCC 644*, the Supreme Court has held as under:

> "43. From the aforesaid discussion, it would logically follow that the High Court would not only discourage but desist from exercising jurisdiction under Article 227 of the Constitution in respect of a challenge for which a separate, distinct, and specific remedy or statutory provision is available under the statute concerned. Availability of an alternative civil remedy and/or under the CPC shall be treated as complete and near total bar on the High Court to venture to invoke and exercise its power available under Article 227 of the Constitution, except where exercise of supervisory jurisdiction becomes absolutely necessary."

11. I have considered the submissions made by the learned counsels of both sides.

12. In *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai v. Tuticorin Educational Society*, (2019) 9 SCC 538, the Hon'ble Supreme Court has held as under:

> "12. But courts should always bear in mind a distinction between (*i*) cases where such alternative remedy is available before civil courts in terms of the provisions of Code of Civil Procedure, and (*ii*) cases where such alternative remedy is available under special enactments and/or statutory rules and the fora provided therein happen to be quasi-judicial authorities and tribunals. In respect of cases falling under the first category, which may involve suits and other proceedings before civil courts, the availability of an appellate remedy in terms of the provisions of CPC, may have to be construed as a near total bar. Otherwise, there is a danger that someone may challenge in a revision under Article 227, even

a decree passed in a suit ……..”

13. It is a settled position of law where the proceedings are under the Code of Civil Procedure, the forum is the civil court and availability of a remedy under the Code of Civil Procedure will deter the High Court, not merely as a self measured restriction, but as a matter of discipline and prudence from exercising its power of superintendence under the Constitution.

14. In the case in hand, the petitioners have a remedy in the Code of Civil Procedure and when there is a remedy in the Code of Civil Procedure, the High Court is not entitled to exercise its power under Article 227 of the Constitution of India.

15. Under the aforesaid circumstances, this Court has decided to agree with the respondent that this petition under Article 227 of the Constitution of India is not maintainable as there is an alternative remedy available in the Code of Civil Procedure. For the said reasons, this petition is found to be devoid of merit and stands dismissed accordingly.

JUDGE

Comparing Assistant