

GAHC010252972024



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

Case No. : I.A.(Civil)/3669/2024

THE PRINCIPAL
TEZPUR LAW COLLEGE, ASSAM, DHANUA NAGAR ROAD,
MAHABHAIRAB TEZPUR, PIN-784001, ASSAM

VERSUS

PARAMANANDA SAIKIA AND ORS
S/O- KUMUD SAIKIA, R/O- BOKAKHAT, DIFFLOO PATHAR, DIST-
GOLAGHAT, PIN-785612, ASSAM

2:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE VICE CHANCELLOR
GAUHATI UNIVERSITY
GOPINATH BORDOLOI NAGAR
GUWAHATI
ASSAM
PIN-781014

5:THE REGISTRAR
GAUHATI UNIVERSITY

GOPINATH BORDOLOI NAGAR
GUWAHATI
ASSAM
PIN-781014

6:THE DISTRICT COMMISSIONER
SONITPUR
ASSAM
MAHATMA GANDHI ROAD
MAHABHAIRAB TEZPUR
PIN-784001
ASSAM

7:THE ADDL. DEPUTY COMMISSIONER
SONITPUR
ASSAM
MAHATMA GANDHI ROAD
MAHABHAIRAB TEZPUR
PIN-784001
ASSAM

8:THE EXECUTIVE MAGISTRATE
SONITPUR
ASSAM
MAHATMA GANDHI ROAD
MAHABHAIRAB TEZPUR
PIN-784001
ASSAM

9:THE PRINCIPAL
TEZPUR LAW COLLEGE
ASSAM
DHANUA NAGAR ROAD

MAHABHAIRAB TEZPUR
PIN-784001
ASSAM

10:THE REGISTRAR
TEZPUR LAW COLLEGE
ASSAM
DHANUA NAGAR ROAD

MAHABHAIRAB TEZPUR
PIN-784001
ASSA

GAUTAM

Advocate for the Respondent : GA, ASSAM, GA, ASSAM,SC, G U

Linked Case : WP(C)/5662/2024

PARAMANANDA SAIKIA
S/O- KUMUD SAIKIA

R/O- BOKAKHAT
DIFFLOO PATHAR
DIST- GOLAGHAT
PIN-785612
ASSAM

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
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ASSAM
DHANUA NAGAR ROAD

MAHABHAIRAB TEZPUR
PIN-784001
ASSAM

9:THE PRINCIPAL INCHARGE
TEZPUR LAW COLLEGE
ASSAM
DHANUA NAGAR ROAD

MAHABHAIRAB TEZPUR
PIN-784001
ASSAM

10:THE REGISTRAR
TEZPUR LAW COLLEGE
ASSAM
DHANUA NAGAR ROAD

MAHABHAIRAB TEZPUR

PIN-784001

ASSAM

Advocate for : MR D MEDHI

Advocate for : SC

HIGHER EDU appearing for THE STATE OF ASSAM AND 9 ORS

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

20.12.2024

Heard Mr. K.N. Choudhury, learned Senior counsel, assisted by Ms. N. Mahanta, learned counsel for the applicant in I.A.(Civil) No. 3669/2024 and respondent No.9 in WP(C)/5662/2024. Also heard Mr. P.R. Sarma, learned counsel for the respondent No.1 I.A. (Civil) No. 3669/2024 and petitioner in WP(C)/5662/2024, as well as Mr. P.J. Phukan, learned standing counsel, for respondent No. 3 and 4, in Gauhati University.

2. As agreed by the learned Advocates of both sides, it is proposed to disposed of WP(C) No.5662/2024, filed by the petitioner and the I.A.(Civil) No.3669/2024, filed by the respondent No.8 by this common order.

3. The background facts leading to filing of the present writ petition is adumbrated herein below:-

“The Tezpur Law College, Tezpur on 31.08.2024, had organized a programme in connection with freshmen social of the college. In the said function, the petitioner, with group of students, entered into the stage and started protest against the college authorities. Accordingly, the college authorities had issued show-cause notice to the petitioner on 02.09.2024. On receipt of said notice, the petitioner had filed his reply on 05.09.2024. Having found the show-cause reply not satisfactory, the respondent No.9, the Principal-In-Charge, Tezpur Law College, initiated disciplinary action

against the petitioner vide impugned Notice, Ref. No.TLC/NB/2024/8730, dated 07.09.2024, with effect from 09.09.2024 as under:-

- (i) Restricted his entry to attend classes of the current session i.e. LL.B. 5th semester.
- (ii) Restricted his entry to appear for any Internal Assessment Examination including Sessional Examination, Seminar & Viva-voce of the current session i.e. LL.B. 5th semester.
- (iii) Restricted his entry to attend any programme, functions, event and festival held in the college premises for the current session i.e. LL.B. 5th semester.
- (iv) Restricted his entry to appear for the End Semester Examination of the current session i.e. LL.B. 5th semester.
- (v) His selection to the Tezpur Law Colleges Students Union 2024-25 will automatically be vacated.

The said restrictions, having not been followed by the petitioner, another Notice, vide Ref. No.TLC/Notice/2024/8797, dated 23.09.2024, was served upon the petitioner to strictly follow the restrictions imposed upon the petitioner, vide Notice dated 07.09.2024.

4. Being aggrieved, by the impugned Notice, vide Ref. No.TLC/NB/2024/8730, dated 07.09.2024, as well as the impugned Notice vide Ref. No.TLC/Notice/2024/8797, dated 23.09.2024, the petitioner, approached this Court by filing the present writ petition, with a prayer to quash the said two Notices.

5. In the said writ petition, this court vide order dated 05.11.2024, was pleased to grant stay upon the disciplinary action at Sl.No.1, 2 and 4 contained in the Notice dated 07.09.2024, as an interim measure.

6. Thereafter, the respondent No.9, the Principal-In-Charge, Tezpur Law College filed an interlocutory application, being I.A.(Civil) No.3669/2024, under Article 226(3) of the Constitution of India for vacation/alteration/ modification of the interim order dated 05.11.2024 passed by this Court in WP(C) No.5662/2024. Accordingly, both the parties are heard today on the I.A.(Civil) No.3669/2024 as well as upon the writ petition No. 5662 of 2024.

7. Mr. Choudhury, learned Senior counsel for the applicant/respondent No.9 submits that Tezpur Law College is a private institution and as such it is not a state as defined in Article 12 of the Constitution of India and the writ jurisdiction, under Article 226 of the Constitution of India cannot be invoked against a private institution. Further Mr. Choudhury submits that the dispute between the respondent No.1/petitioner and the applicant/respondent No.9 in the writ petition is private in nature, which cannot be adjudicated by this Court in exercising the writ jurisdiction, under Article 226 of the Constitution of India. Mr. Choudhury, also vehemently submits that the only option available to the respondent No.1/petitioner is the civil court and this petition is not maintainable and therefore contended to vacate the interim order dated 05.11.2024 and to dismiss the writ petition.

8. Whereas, Mr. Sarma, learned counsel for the respondent No.1/petitioner submits that though the College is a private law college, the same is affiliated to Gauhati University and it is also a state, as defined in Article 12 of the Constitution of India and as such, the petition is maintainable and that the respondent No.1/petitioner is innocent and with the intervention of this Court, vide order dated 05.11.2024, he had appeared in the LL.B. Examination and if the restriction imposed upon the respondent No.1/petitioner is materialized, then it will ruin his career and therefore, it is contended to allow the petition by setting aside the impugned notices, dated 07.09.2024 and 23.09.2024.

9. During the course of deliberation, this Court has asked Mr. Choudhury, learned Senior counsel for the applicant/respondent No.9 that without prejudice to any of the party and without going into the merits and demerits of the respective contention of the

parties, can some concession be given to the respondent No.1/petitioner herein, as the restrictions being imposed upon him will have serious consequence upon the career of the petitioner.

10. The learned Senior Counsel then submits that he will obtain necessary instruction in this regard and contended to list the matter today to apprise the same.

11. Accordingly, Mr. Choudhury, learned Senior Counsel apprised this court that the applicant/respondent No.9 is ready to give concession to the respondent No.1/petitioner, but, he has to tender unconditional apology to the college authority and also to publish the same in two widely circulated local newspapers, one in English and another in vernacular, and also he has to pay some costs.

12. At this stage, Mr. Sarma, learned counsel for the respondent No.1/petitioner submits that he is ready to tender unconditional apology and to publishing the same in two newspapers and also ready to pay some costs. However, Mr. Sharma submits that the cost should be nominal as the petitioner is student and he is dependent upon the income of his father.

13. Having considered the submission of learned Advocates of both the parties and as agreed upon, this Court is inclined to dispose of the writ petition by setting aside the impugned Notice dated 07.09.2024, vide Ref. No.TLC/NB/2024/8730, as well as the impugned Notice, dated 23.09.2024, vide Ref. No.TLC/Notice/2024/8797.

14. However, the respondent No.1/petitioner has to tender written apology to the applicant/respondent No.9 and shall publish the same in two widely circulated newspapers in that locality, one in English and the other in vernacular, and also he has to pay a sum of Rs.10,000/- (Rupees ten thousand) being the cost, which shall be deposited in the Student Welfare Fund of the Tezpur Law College and if such fund is not available, then the same shall be deposited in the office of the District Legal Services Authority, Tezpur, within a period of 1(one) month from today.

15. While fixing the quantum of cost, this Court has taken note of the submission of

learned Advocates of both the parties and also taken note of the background facts leading to initiation of the disciplinary action against the respondent No.1/petitioner. And taking note of the all the facts and circumstances, this court is of the view that the quantum of cost must have some deterrent effect and the same is required to maintain discipline amongst the unruly students. Accordingly, this Court is of the view that a sum of Rs.10,000/- will be justified and reasonable amount of cost herein this case.

16. It is being clarified the respondent No.1/petitioner has to comply with the direction of this court stated in para No.14 of this order within a period of two months from today. It is further clarified that in the event of failing to comply with the aforesaid directions, the restrictions so imposed upon him, vide impugned Notice dated 07.09.2024, vide Ref. No.TLC/NB/2024/8730, as well as the impugned Notice, dated 23.09.2024, vide Ref. No.TLC/Notice/2024/8797, shall automatically stands restored, after two months.

JUDGE

Comparing Assistant