
(1997) 05 GAU CK 0008
In the Gauhati High Court
Case No : Civil Rule No. 2782 of 1996

Amrit Chandra Nath

APPELLANT

Vs

Gauhati University

RESPONDENT

Date of Decision : 15-05-1997

Acts Referred:

Gauhati University Ordinance on Affiliation of Teachers Training College, 1958 —
Clause 11, Clause 11, Clause 3(c), Clause 3(c), Clause 9, Clause 9

Citation : (1997) 2 GLJ 139

Hon'ble Judges : A.K.Patnaik, J

Bench : Single Bench

Advocate : R.L.Yadav, R.Barpujari, K.Yadav, G.C.Phukan, Advocates appearing for Parties

Judgement

1. In this application under Article 226 of the Constitution, the petitioner who is the Secretary of Rajdhani College of Education. Basistha Road, Beltola, has prayed for a direction on the respondents to issue Admit Cards to its students for the academic session 199596 for the B.Ed Examination starting from 18.6.96 and for quashing the notification dated 10.6.95 of the Academic Registrar, Gauhati University, wherein the last date of admission to the B.Ed Course for the session 199596 has been fixed as 31.8.95.

2. The facts very briefly are that the Executive Council of the Gauhati University permitted the sponsoring body of the Rajdhani College of Education to start a college of education by resolution dated 8.4.95. On the strength of the said permission, Rajdhani College of Education was started at Guwahati and students were admitted for the session 199495. Thereafter, on 9.9.95, a notification was issued by the Gauhati University in the newspaper stating therein that it has come to the notice of the Gauhati University that some institutions have invited applications for admission to B.Ed course without permission of the University to start the course and candidates who get admitted to such institutions will be doing so at their own risk and responsibility. In the said notification, the list of

colleges which had been permitted to start the B.Ed course had been given which included the Rajdhani College of Education, Gauhati. During September 1995, the Rajdhani College of Education, Gauhati admitted students to B.Ed course for the session 199596. The said students for the session 199596 went through the classes and also took a practical examination. But when the Secretary of the college went to Gauhati University to obtain Admit Cards for the said students for the B .Ed examination scheduled to be held on 18.6.96, he was informed that the Admit Cards would not be issued for the said students of the session 19596 as they were admitted after 31.8.95 which was the last date of admission as notified in the impugned notification dated 10.6.95. Aggrieved, the petitioner has filed this civil rule to direct the respondents to issue Admit Cards in favour of the aforesaid students of the session 199596 and to quash the notification dated 10.6.95 fixing the last date of admission for the said session as 31.8.95.

3. When the civil rule was moved before this Court on 14.6.96, this Court issued Rule and passed interim order directing the respondents to allow seven students of the college to sit in the ensuing B.Ed examination by issuing Admit Cards. By the said order, however, the Court directed that the results of those students shall not be announced without the permission of this Court. Pursuant to the said order dated 14.6.96, it appears that the Admit Carets have been issued to the said seven students and they have taken the B.Ed examination but their results have been withheld.

4. Mr. GC Phukan, learned counsel for the petitioner, submits that since the seven students have been allowed to take the B.Ed examination, their results should now be declared. He contended that the main ground taken in the affidavitinopposition filed by the respondents for refusing to issue the Admit Cards for the seven students is that the Rajdhani College of Education had been granted permission to start the B.Ed course only for the session 199495 and yet the college had admitted students for the session 199596. Hence the said students for the session 199596 are not entitled to sit for the B.Ed examination held on 18.6.96 as well as their results. This stand taken by the respondents, according to Mr. Phukan, cannot be supported under the law because under the "Ordinance on Affiliation of Teachers" Training College, 1968, as amended upto date and in particular claus"e (3) thereof permission to start classes was not given for any particular year. Hence the permission that has been granted by the Executive Committee of the Gauhati University to the Rajdhani College of Education for starting B.Ed course cannot be limited to the session 199495 only. It was next submitted by Mr. Phukan that the second contention raised by the respondents in their affidavitinopposition for refusing to issue Admit Cards to the seven students of the Rajdhahi College of Education for the session 199596 is that the said students did not have necessary degree of BA/B.Sc for admission into the B .Ed course at the time of admission. But the stand taken by the Gauhati University in the affidavitinopposition is not factually correct. Mr.Phukan produced before me documents to show that the seven students were admitted in September, 1995 after their mark sheets were produced before the college

authorities showing that they have passed BA/B.Sc examinations. Finally, Mr. Phukan contended that for the session 199495, the last date of admission was fixed as 30.11.94 as would be evident from the notification dated 28.3.94, a copy of which has been annexed to the writ petition as Annexure B. Therefore, the college authority was under the impression that the last date for admission to session 199596 would be accordingly 30.11.95 and admitted the students for the session 199596 during September, 1995. But subsequently when the Secretary of the college went to obtain Admit Cards for the B.Ed examination to be held on 18.6.96 for the students of the session 199596, he was informed by the Gauhati University that the last date of admission for the academic session 199596 had been fixed as 31.8.95. According to Mr. Phukan, for any lapse on the part of the college authority, the students who have been admitted to the session 199596 should not be made to suffer and on the facts and circumstances of the case a direction should now be issued to the respondents to publish the results of the B.Ed examination taken by the seven students.

5. In reply to the aforesaid submission of Mr. Phukan, Mr. RL Yadav, learned counsel for the respondents, vehemently contended that the very language of the permission order issued to the Rajdhani College of Education for starting B.Ed course would show that it was granted only for the session 199495 and there was no permission to start classes for the session 199596. Mr. Yadav further submitted that the notification dated 9.9.95 was issued by the Gauhati University clearly stating there in that candidates who get admitted to the institutions which are not permitted by the Gauhati University will do so on their own risk and responsibility. He further submitted that subsequently the notification dated 18.6.96 was issued with almost similar wording and in the said notification it was clearly indicated that the Rajdhani College of Education, Beltola, Guwahati, was not amongst the permitted or temporary affiliated colleges. The said subsequent notification dated 18.6.96 was challenged by the Rajdhani College of Education in Civil Rule No.3142 of 1996. But the said civil rule was dismissed by the learned Single Judge of this Court by judgment dated 24.9.96. Mr. Yadav further submitted that against the said judgment, the Rajdhani College of Education has filed a writ appeal being No.559/96 which is pending disposal and until the matter is finally decided by the Division Bench in the said writ appeal, no direction can be given by this Court in the present civil rule to the respondents to publish the results of the seven students who were permitted by this Court to take B.Ed examination.

6. It was next submitted by Mr. Yadav that the present writ petition does not indicate the names of the candidates who had taken the B.Ed examination for the session 199596 and a vague direction cannot be given to the respondents to publish the results of the candidates who had not been named. He further argued that the prayer made in the writ petition is for quashing the notification dated 10.6.95 fixing the last date for B.Ed course for the session 199596 as 31.6.95. But the said relief cannot be granted by this Court at this stage. On the peculiar facts and circumstances, according to Mr. Yadav, this Court should not direct the

respondents to publish the results of the candidates for the session 199596 of the Rajdhani College of Education.

7. The main question which arises for determination in this writ petition is as to whether the students for the session 199596 could be admitted to B.Ed course by the Rajdhani College of Education. According to Mr. Yadav, the students for the session 199596 to B.Ed course ought not have been admitted by the said college as permission to start B.Ed course was granted only for the session 199495. On the other hand, Mr. Phukan, submitted that under the scheme provided under the Ordinance on Affiliation of Teachers' Training College, 1968, as amended upto date, permission to start classes is given by the University not for one academic session and once the permission is granted, the same remains in force until it is withdrawn. Clause (3) (c) of the Ordinance on Affiliation of Teachers' Training College, 1968, as amended upto date is extracted hereinbelow :

"3. Permission to Start Classes

(c) On a satisfactory inspection report the Executive Council may grant permission on recommendation of the Affiliation Committee on or before June 30th of the year of application to start the college and conduct the classes as proposed with effect from 1st July of the following year. Such a college shall be required to submit a progress report within 31st August showing date of commencement of the classes, number of students admitted, subjects introduced for teaching, number or volumes in the library subjectwise with cost, journals, subscribed, arrangement made for the laboratories in the case of science subjects and principal and teachers appointed (whole time or part time) giving their names, ages, qualifications (examinations passed with division from Matric onwards, year of passing each examination, the Board or University from which passed, research experience or degree, if any, teaching experience, joining dates and salary."

The aforesaid clauses 3 (c) states that on a satisfactory inspection report the Executive Council can grant permission on or before 30th June of the year to start the college and conduct the classes as proposed with effect from 1st July of the following year. There is no mention in the aforesaid clause (3) (c) that permission is to be granted for a particular year. This is in contrast to the provision in clause (4) (c) of the said Ordinance which provides that on a satisfactory report from the Inspector, the Executive Council may grant temporary affiliation to a Teachers' Training College for one year at the first instance, it is thus clear that while permission to start classes under clause (3) (c) is not granted for a particular session, temporary affiliation can be granted for one year at the first instance.

8. Mr. Yadav, however, contended that if this interpretation is adopted then the college which is permitted to start classes subject to certain condition does not fulfil those conditions may claim that the permission once granted cannot be

revoked. This apprehension of Mr. Yadav is misconceived because there is a clear provision in clause (11) of the Ordinance that the Executive Council shall have power to withdraw any affiliation or permission granted to a college at any time whenever in the opinion of the Executive Council, the college has not been managed properly or has failed to comply with the rules, regulations, statutes or Ordinances or any other directive of the University. On a reading of the provision of clauses (3) and (11) of the Ordinance. I am of the considered opinion that permission to start classes granted under the said clause can not be confined to any academic session and continues to remain in force until it is withdrawn by the Executive Council of the Gauhati University under clause (11) of the Ordinance.

9. The next question is as to whether the Rajdham College of Education had the authority to admit students for the academic session 199596 for B.Ed course during September, 1995 when the admissions were made. Clause (9) of the Ordinance provides for admission of students which runs as follows:

"9. Admission of Students : No student shall be admitted to any Teachers" Training College before permission to start the college is granted by the University. Breach of this rule may be sufficient ground for refusal of any permission."

The aforesaid clause (9) stipulates that no student shall be admitted to any college before permission to start the college is granted by the University. Hence any admission of a student prior to grant of such permission would be contrary to clause (9) of the Ordinance. Similarly, once the permission is withdrawn by the Executive Council of the University under clause (11) of the Ordinance, any admission of a student to the college after such withdrawal of the permission would also be contrary to clause (9) of the Ordinance. In the instant case, the permission was granted to the college by resolution dated 8.4.95 for the academic session 199495. Yet in the notification dated 9.9.95 published by the Gauhati University in the newspaper after the commencement of academic session 199596 on 31.8.95 one of the B.Ed college shown to have been permitted/affiliated with the Gauhati University is the Rajdhani College of Education. Thus a clear notice was issued by the Gauhati University on 9.9.95 to the public including the students taking admissions that Rajdhani College of Education has been permitted by the University to start B.Ed course. This notification dated 9.9.95 was consistent with the provisions of the Ordinance that permission to start classes once granted to a college is not confined to one particular year but continues until it is withdrawn by the Executive Council of the University. Having held out, to the candidates taking admission, in the said notification dated 9.9.95 that the Rajdhani College of Education was a college permitted to start B.Ed course by the University and after the candidates were admitted into B.Ed course of Rajdhani College of Education during September, 1995 for the academic session 199596, the Gauhati University was estopped from taking a view that the permission that was granted to the Rajdhani College

of Education to start the B.Ed course was confined only to the session 199495.

11. Coming now to the submission of Mr. Yadav based on the judgment of the learned Single Judge in CRNo.3142 of 1996 now in appeal before the Division Bench in Writ Appeal No.559 of 1996,¹ find that in the said civil rule, the Rajdhani College of Education challenged the notification dated 19.6.96 which was issued nine months after the candidates has taken admission to the Rajdhani College of Education in September, 1995. By the said notification, the Gauhati University had notified to the candidates taking admission to the B.Ed course that the Rajdhani College of Education was not amongst the colleges permitted/affiliated with the Gauhati University. The said notification dated 18.6.96 will thus apply to all candidates taking admission to the Rajdhani College of Education after 18.6.96. So far as the present civil rule is concerned, the relevant question was as to whether during September, 1995, the Rajdhani College of Education had the authority to admit students to the session 199596 and I have held above that the permission granted to the Rajdhani College of Education to start college of education was very much in force and had not been withdrawn during September, 1995. Rather the notification dated 9.9.95 issued by the Gauhati University expressly held out that the Rajdhani College of Education was one of the permitted/affiliated B.Ed college under the Gauhati University. Hence the subject matter of the Civil Rule No.3142 of 1996 and Writ Appeal No.559 of 1996 was different from the present civil rule and the pendency of WA No. 559 of 1996 before the Division Bench of this Court is not a bar for this Court to decide the present case and grant appropriate relief.

12. Regarding the prayer of the petitioner to quash the notification dated 10.6.95 notifying that the last date of admission to B.Ed course for the session 199596 was 31.8.95. Mr. Yadav is right that the said notification cannot be quashed by this Court at this stage as the said notification has already been acted upon by the different colleges while granting admission to the students to B.Ed course for the session 199596. But merely because admissions were granted to the students after 31.8.95 to the academic session 1995 96 by the Rajdhani College of Education, the students of the said college cannot be denied Admit Cards for taking B.Ed course so long as the said students have gone through the B.Ed course for the academic session 199596. It is not the case of the University in the civil rule that the students admitted by the Rajdhani College of Education had not gone through the entire B.Ed course for the session 199596 on account of their late admission in September, 1995.¹ am of the considered opinion, if the students who had been admitted to session 199596 had gone through the B.Ed course, they could not be denied Admit Cards to sit in the B.Ed examination on the technical ground that they had been admitted after the last date of admission notified by the University by its notification dated 10.6.95.

13. Finally coming to the contention of Mr. Yadav that in the instant petition the names of the candidates who had been denied Admit Cards, have not been indicated and hence no vague or general relief can be granted for issue of Admit

Cards or for publication of their results. I find that by the interim order dated 14.6.96 this Court directed that the names of seven candidates who had been denied Admit Cards for the B.Ed course examination for the session 199596 to be held from 18.6.96 were to be supplied by the petitioner to the Controller of Examinations, Gauhati University, respondent No. 3. Mr. Phukan, learned counsel for the petitioner, submitted that pursuant to the said interim order dated 14.6.96, the names of seven candidates had been supplied by the petitioner to the Controller of Examinations, Gauhati University, respondent No.3 and the said seven candidates were given Admit Cards and they were, allowed to sit in the B.Ed examination and in fact they had taken their B.Ed examination but their results have not been published. Thus it is not correct that the Court would pass a vague or general direction to the respondents to publish the results of the candidates who were not named.

14. Mr. Phukan produced before this Court the mark sheets of the following seven candidates as well as admission forms duly filled by them.

1. Ms. Bhoomika Saikia, 2. Mr. Satish Kumar Nair,
3. Ms. Taznia Alam, 4. Ms. Shabreena Yasin,
5. Ms. Ruma Barua, 6. Mr. Pradip Kumar Medhi,
7. Ms. Rumjum Sarma.

From a perusal of the mark sheets and admission forms, I find that the aforesaid seven candidates had been admitted after their mark sheets were furnished to the college authority. Therefore it is difficult to hold as contended by the respondents that the seven candidates had not acquired BA/BSc degree when they were admitted into the B.Ed course.

15. For those reasons stated above, this writ petition is partly allowed and I direct that the respondents will publish the results of the aforesaid seven candidates within a period of one month from the date of receipt of a certified copy of this order. The petitioner will file a certified copy of this order before the Controller of Examinations, Gauhati University, respondent No.3, as soon as possible. Considering, however, the entire facts and circumstances of the case, the parties shall bear their own costs.