
(2007) 02 GAU CK 0060
In the Gauhati High Court

Anju devi

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 13-02-2007

Acts Referred:

Citation : (2007) 2 GLT 373

Hon'ble Judges : Amitava Roy, J

Bench : Single Bench

Judgement

Amitava Roy, J.—The petitioner, a student of the Gauhati University (hereinafter referred to as the "University") is before this Court, her results for the TDC Part III having been withheld.

2. I have heard Mr. S. Bhattacharjee, learned Counsel for the petitioner and Mr. L.P. Sharma, learned Standing Counsel for the University appearing for the Respondent Nos. 2 to 5. Mr. Dutta, learned Standing Counsel, Education Department appears for the Respondent No. 1. None has entered appearance on behalf of the Respondent No. 6, Principal, Handique Girls" College, Guwahati.

3. The pleaded case of the petitioner is that, her father who is a Subedar in the Indian Army is presently posted at Army Unit in the Narengi Cantonment near Guwahati. He being on a transferable job, the petitioner had to accompany him at his places of posting. The pursue the Bachelor of science course, she got admitted in the Deb Samaj College, Ferozepur city under Punjab University and passed the Part-I examination thereof in the year 2004. On her father"s transfer to Guwahati, she obtained the Migration certificate from the said University which clearly mentioned inter alia that she had passed the B.Sc. Pt-I examination from the said University in the month of April, 2004. She, thereafter took admission in B.Sc. Part II course of the Gauhati University in Handique Girls" College, Guwahati on the basis of the said Migration certificate and the Result cum Marks Certificate. B.Sc. Part-II course comprises of two years of study i.e., IIInd and IIIrd years to be cleared through regular University examinations. She pursued the said course and on completion of the second year filled up the application

form for appearing in the IInd" year examination held by the University. The Admit Card being issued to her by the University, she appeared in the said examination and passed the same. In the meantime, she had been registered as a student of the University and was allotted the Registration No. being 043210 of 2004-2005. On completion of the Third year, on her application, she was permitted to appear in the B.Sc. Pt II final examination held by the University having been issued the admit card therefor. The petitioner duly appeared in the said examination. However, though the results of the B.Sc. Pt II final examination of the year 2006 were declared in the month of September, 2006, her results were withheld. As repeated representations before the authorities of the University did not evoke any response, she approached this Court for redress.

4. In its counter, the University has pleaded that it was a mistake on the part of the Respondent No. 6, Principal of the College in admitting her to the B.Sc. Pt-II course as she did not comply with the requirements of Regulation for B.Sc. (TDC) Course (hereinafter referred to as the "Regulation"). According to it, under the aforementioned Regulation effecting from 2003-2004 for admission to Pt II course in B.Sc. a student should complete the course of study of B.Sc. Pt I from the Gauhati University. As the petitioner did not pass B.Sc. Pt I course from this University, she was thus not entitled to get admission into the B.Sc. Pt II course and pursue the same.

5. Mr. Bhattacharjee has argued that the petitioner having been admitted into the B.Sc. Pt II course and she having been registered as a student of the University, the impugned decision of withholding her results on the purported application of the Regulation is illegal, unfair and unjust. The authorities of the University having permitted the petitioner to complete the B.Sc. Pt II course and appear in the examination by issuing admit card therefor, the decision to withhold her results is patently arbitrary. The petitioner being not at all at fault, she not having withheld any document or information from the concerned authorities of the college or University, she ought not to be penalized, he urged.

6. Mr. Sharma, in reply, has contended that the Regulation having prescribed the conditions of eligibility for admission to the B.Sc. Pt II course of the University, the impugned decision cannot be faulted with. According to him, the admission of the petitioner being in violation of the Regulation, the mere fact that she had been permitted to complete the course and to appear in the examination does not bestow any inviolable right in her to compel the University to declare her results.

7. The rival submissions have been duly considered. Admittedly, the petitioner had passed Pt I examination of the B.Sc. course from the Punjab University before she had taken admission in the B.Sc. Pt II course under the University in 2004. It is apparent from the documents annexed to the petition that she had been duly registered with the Gauhati University in the year 2004, her Registration No. being 043210 of 2004-2005. That she thereafter had completed the course in full and had been permitted to appear in the University

examinations for two consecutive years constituting B.Sc. Pt II course on the strength of admit cards being issued by the University is also not in dispute. It is not the stand of the University that the petitioner had secured admission in the Handique Girls College, Guwahati by withholding essential information or producing false documents. In other words, the facts and circumstances clearly demonstrate that the petitioner had been admitted to the B.Sc. Pt II course of the University by the authorities concerned being aware that she had passed B.Sc. Pt I examination from the Punjab University. It is, however; not unlikely that a communication gap had existed between the authorities of the college and the University in this regard. Be that as it may, the fact that the petitioner had pursued her course in full without being inhibited at any point of time by the respondent authorities, cannot be lost sight of.

8. The provision of the Regulation for B.Sc. Pt II (TDC) of the University relating to admission to Pt II course deserves to be extracted for ready reference:

B. Sc. Admission in Pt II course:

Admission to Part II course (2nd year class) shall be open to all those students who have completed the course of study of B.Sc. Part 1 of this University.

9. The purport of the above mandate is restriction of admission of students to Pt II course to those who had cleared B.Sc. Pt I examination under the University.

10. In view of the exceptional facts situation as noticed herein above for which the petitioner, in any view of the matter, cannot be held responsible, I am of the opinion, that the stand of the University, though in terms of the letter of the Regulation may be justified, cannot be sustained in the touchstone of equity. It is not a case where a candidate has managed her/his admission to an academic course by suppressing and/or distorting material facts and documents. Even if by mistake the petitioner had been granted admission to pursue and complete her course and appear in the concerned examinations, to deny the petitioner her results or to require her to complete the B.Sc. Pt I course afresh under the University, in my view, would be too harsh and iniquitous. The extraordinary situation demands that the approach to be adopted ought to be tempered with pragmatism and compassion.

11. On a consideration of the totality of the facts and without offering any comment on the provision of the Regulation, I consider it to be in the interest of justice to close this petition with a direction to the University to declare the B.Sc. Pt II results of the petitioner. It is made clear that this direction has been issued bearing in mind the unique features of the present case and would in no case be treated to be a precedent in future. As the petitioner waits in expectation, her results should be declared within a period often (10) days from the date of receipt of the certified copy of this order. No costs.