
(1991) 11 GAU CK 0008
In the Gauhati High Court
Case No : Civil Rule No. 2480 of 1991

Bizoy Bhusan Das

APPELLANT

Vs

Governing Body, GC College, Silchar

RESPONDENT

Date of Decision : 11-11-1991

Acts Referred:

Assam Aided College Management Rules, 1976 — Rule 3, 3
Constitution of India, 1950 — Article 12, 12, 226, 226

Citation : (1991) 2 GLJ 451 : (1993) 1 GLR 73

Hon'ble Judges : R.K.Manisana Singh, J and M.Sharma, J

Bench : Division Bench

Advocate : U.Barua, N.M.Lahiri, M.Singh, K.P.Pathak, M.K.Sharma, Advocates
appearing for Parties

Judgement

R. K. Manisana, J.—In this writ petition under Article 226 of the Constitution, the petitioner has challenged the proceedings of the meeting of the Teachers" Council of the Gurucharan College, Silchar held on 12.4.91. The operative portion of the resolution runs as follows :

?However, the house resolved that the two teachers" representatives to the Governing Body elected in the Annual General Meeting of the Teachers Council held on 10.11.90 shall continue as teachers" representatives in the new Governing Body reconstituted under Govt. notification no G(A) GB/36/90/33 dated 20.3.91 till the next Annual General Meeting of the Teachers" Council and fresh election is not necessary now.?

2. Facts, the Gurucharan College, Silchar is a Government Aided College. The petitioner is a Lecturer of the college in the department of Botany at the material time. Under the Assam Aided College Management Rules 1976, for short ? the Rules" made by the Governor of Assam in exercise of powers conferred by the proviso to clause (g) of section 21 of Gauhati University Act, 1947 and proviso of clause (f) to section 32 of the Dibrugarh University Act, 1965, every Government Aided College shall be governed by a Governing Body, Under Rule 3 of the Rules

of Governing Body shall consist of amongst others two representatives of the teaching staff to be elected annually from among themselves.?

On 10/11/90, two teachers, namely respondent 4 Mr. S.K. Biswas and respondent 5 Mr. S. Dhar were elected as members of the Governing Body, which Governing Body was dissolved in the month of March 1991. The Government of Assam, by a notification dated 20/3/91, reconstituted the Governing Body of the college with Shri A.K.Das as its President for a term of three (3) years with effect from 20/3/91. With regard to representatives of teaching staff, the Teachers' Council of the college passed the impugned resolution in its meeting held on 12/4/91 to the effect that there would not be fresh election and the two teachers, namely, Mr. S.K.Biswas and Mr. S. Dhar, would continue to be the representatives of the teaching staff as they could not complete one year as members of the Governing Body.

3. Mr. K.P. Pathak, learned counsel for the petitioner, has contented that, since the Governing Body was dissolved, the two representatives of the teaching staff Sarbashri S.K. Biswas and S.Dhar cease to be members of the Governing Body and therefore, fresh election was required to elect another two representatives of the teaching staff of the college.

4. The expression "elect" means to select for an office or employment by a majority of votes. Therefore, the word "elected" used in rule 3 carries the idea of a vote, and cannot be held synonym of any other mode of filling a position. In that view of the matter, the resolution or decision of the Teachers' Council for filling a position in the Governing Body cannot be synonymous with election. For the reasons, the Teachers' Council could not pass the impugned resolution as it was against Rule 3 of the Rules.

5. The next question which arises for consideration is whether a writ shall not lie against the Teachers' Council. Mr. N.M.Lahiri, learned counsel for the respondents 4 and 5, has contented that no writ can be issued against the Teachers' Council as the Teachers' Council is not an authority within the meaning of the Article 12 of the Constitution of India. We prefer to leave the question to be dealt with later, if ever it is alleged. We approach the matter thus Rule 3 has cast a duty on the teaching staff of the Governing Aided College to elect two of them as their representatives. It appears that the Teachers' Council have been electing two of its members by a majority of votes as their representatives. Therefore, Teachers' Council cannot be separated from the Governing Body of the College. Therefore, Rule 3 creates a right-duty relationship between the teaching staff and the Governing Body. When there is existence of this relationship. An appropriate writ cannot be refused considering the expanding horizon of the Article 226 of the Constitution.

6. In the result, the impugned resolution quoted above is quashed and the Teachers' Council is directed to elect two of them as their representatives in the Governing Body of the College. Accordingly, the petition is allowed and disposed

of.