
(2009) 06 GAU CK 0019
In the Gauhati High Court
Case No : Writ Petition (C) No. 2720 of 2008

Hemendra Nath Pathak

APPELLANT

Vs

Gauhati University and Others

RESPONDENT

Date of Decision : 05-06-2009

Acts Referred:

Citation : (2009) 4 GLT 680

Hon'ble Judges : Amitava Roy, J

Bench : Single Bench

Advocate : B. Bhuyan, R.S. Deuri and R. Tanti, for the Appellant; L.P. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Amitava Roy, J.—The Petitioner seeks the intervention of this Court to remedy his grievance against the rejection of his thesis, which he contends, he was misled to be submitted independently, though his research guide approved by the Gauhati University (hereafter referred to as the University) was available.

2. I have heard Ms. B. Bhuyan, learned Counsel for the Petitioner and Mr. L.P. Sharma, learned Standing Counsel for the University.

3. The pleadings of the parties lay the factual foundation and would have to be necessarily traversed. The Petitioner has averred that he is a Post Graduate in Physics and following the acquisition of his Masters degree in the said subject had engaged himself as a research Scholar in the same Department of the University with specialisation in Electronics. On his application for provisional registration for Ph. D. Degree on 26.8.1986, he was allowed to do so under the guidance of Dr. Meenakshi Devi, Reader in the Department the subject of the dissertation being "Status on small and large scale irregularities seen through VHF RB at Low latitude station." According to the Petitioner, the research work undertaken did not progress well in view of the casual attitude of the guide for which he could not submit the thesis in time. Eventually, having readied his

thesis on 2.11.1993, he submitted an application before the Vice Chancellor of the University seeking permission to submit the same independently. In the meantime, on his request, the initial term prescribed for submission of the thesis had been extended from time to time by the University. According to the Petitioner, however, on being advised thereafter, he made a request with the aforementioned authority to arrange for another recognised guide so as to enable him to submit his thesis. In the letter dated 23.4.1994 to the said effect, he disclosed that though he had completed the thesis, it was not possible for him to submit the same without the supervision of a guide. In response to the said letter, the Petitioner was informed on 14.6.1994 that in terms of the decision of the Ph. D. Committee he was permitted to start the process afresh with a new guide, if necessary. It was thereafter that the Petitioner on 3.5.1995 submitted an application in the prescribed form for provisional registration for Ph. D. Degree on the title "Studies on some aspects of ionosphere over Gauhati during 1979-1990" mentioning therein Dr. G.K.D. Mazumdar, Department ofUSIC, Gauhati University, as his guide. On 2.11.1995, he submitted the application for final registration in the prescribed format containing the recommendation of his aforementioned guide. While his application was thus pending, the Petitioner was informed by the letter dated 13.3.1997 of the Academic Registrar in-Charge, Gauhati University, that as per the decision of the Research Council taken in its meeting held on 8.1.1997, he had been allowed to be finally registered for Ph. D. Degree and submit his thesis independently. He was also served with a letter dated 14.3.1997 also signed by the same authority informing him of his final registration for the Ph. D. Degree on the above named subject as an independent researcher. The Petitioner accordingly submitted his thesis finally on 11.6.1997. As there was a stony silence on the part of the University in the matter, he submitted representations before different authorities and forums but to no effect. Eventually by the letter dated 7.12.2002 of the Academic Registrar, Gauhati University, the Petitioner was informed that the Research Council, on a consideration of the reports of the examiners, had rejected his thesis. Being aggrieved, the Petitioner submitted a series of representations before the said authority seeking an opportunity either to modify the thesis or to have it examined by another expert. In reply thereto, the Academic Registrar, Gauhati University, by his letter dated 22.1.2003 intimated him that as none of the examiners had recommended that the degree of Ph. D. be awarded to him, there was no scope to review the decision of the Research Council already conveyed to him. The Petitioner thereafter submitted a spate of representations before the different authorities seeking redressal of his grievance and on invoking the provisions of the Right to Information Act, 2005, having received copies of the evaluation reports of the examiners has laid the present challenge.

4. The University in its counter has asserted that though the Petitioner initially proceeded with his research work under Dr. Meenakshi Devi as permitted by it, he applied for a fresh Ph. D. registration under a new guide under Dr. G.K.D. Mazumdar, Department ofUSIC, Gauhati University. After granting him, the

permission to do so on 3.4.1995, it transpired that the study undertaken by him under the new guide was exactly the same as was in the former pursuit under Dr. Meenakshi Devi. The University, therefore, did not sanction this process and thus to avoid any setback to him ultimately, afforded him an opportunity of submitting his thesis independently as per the decision of the Research Council taken in its meeting held on 8.1.1997. The Petitioner responded thereto without any reservation and submitted an application on 11.6.1997 to allow him to submit his thesis as an independent candidate. On being so permitted, he accordingly submitted his thesis, which was thereafter forwarded to three external examiners for evaluation thereof as required under Regulation 11 of the Regulation for the degree of Dr. of Philosophy (Ph. D.) (hereafter referred to as the Regulation). The three examiners namely Prof. A.B. Kulkarni, Prof. P.K. Bhuyan, Prof. P.K. Bhatnagar, on an appraisal of his work concluded as follows.

5. According to the University, as none of the external examiners as above recommended the award of Ph. D. degree to the Petitioner unconditionally, the matter was placed before the Research Council for a decision which in its meeting held on 20.8.2002, on a threadbare evaluation of all relevant aspects rejected the thesis of the Petitioner. The decision was accordingly communicated to the Petitioner by letter dated 7.10.2002 through the Academic Registrar. The University has asserted that the impugned decision is in conformity with the mandate of Regulation 12(d) of the Regulation and is therefore unassailable in law.

6. The Petitioner in his affidavit in reply while generally reiterating the averments in the writ petition has inter alia denied the imputation that the title and the research work under the two guides named hereinabove were in any way identical to each other.

7. By its additional affidavit, the University has brought on record a copy of the resolution dated 8.1.1997 of the Research Committee permitting the Petitioner to submit his thesis independently.

8. By his supplementary affidavit thereto, the Petitioner avowed that he had never applied for a permission of the University to submit his thesis independently and that the letter dated 14.3.1997 of the Academic Registrar and the University registering him as such was sans any initiative on his part in that regard.

9. Ms. Bhuyan has assiduously urged that as the Petitioner has at no point of time applied to the University to permit him to submit his thesis independently, the purported resolution of the Research Council to the said effect and his suo motu registration as an independent research candidate is repugnant to the Regulations and is therefore non est in law. As in the above premise, the Petitioner's thesis could not have been assessed to be one submitted in his independent capacity, the approach of the University in construing the recommendations of the examiners is palpably erroneous, she urged. Without

prejudice to the above, Ms. Bhuyan has argued that as two of the examiners in substance have conditionally recommended the Petitioner's thesis, the same could not have been rejected under the Regulations. According to her, as the Petitioner had been allowed to pursue his research work under the guidance of Dr. G.K.D. Mazumdar who had recommended the thesis submitted by him on 22.6.1996, the rejection thereof without either reference to his guide or his recommendation is obviously illegal. Ms. Bhuyan therefore urged that it is a fit case where this Court ought to interfere with the impugned decision of the University and direct a reconsideration of the Petitioner's thesis construing the same to be one submitted under his guide Dr. G.K.D. Mazumdar.

10. Mr. Sharma, per contra has argued that as the research work undertaken by the Petitioner under his earlier guide Dr. G.K.D. Mazumdar was adjudged to be identical to the one pursued by him under his earlier guide, it was impermissible to allow him to continue with his enterprise under the latter guide. However, the University being alive to the fact that the Petitioner had meanwhile put in several years of efforts on the study, it for his benefit permitted him to submit the thesis independently, a decision accepted by him without any reservation. The learned Standing Counsel maintained that as the Petitioner thereafter on 11.6.1997 applied for submission of his thesis as an independent research scholar, on submitting to the decision of the Research Council to the said effect, his dissertation was placed before the examiners and basing on their assessment the same was rejected in terms of Regulation 12(d) of the Regulations. According to Mr. Sharma, the Petitioner having accepted the decision of the Research Council to permit him to submit his thesis as an independent research scholar, he is estopped in law to question the legality and/or validity of the same. As the thesis has been evaluated by the examiners as required by the Regulations, the impugnments projected in the instant petition are misconceived and are thus liable to be rejected.

11. The parties noticeably are not in issue on the sequence of events till the provisional registration of the Petitioner for research work under Dr. G.K.D. Mazumdar, Department of USIC, Gauhati University, on 3.4.1995. It is not denied by the University either that thereafter the Petitioner had submitted an application for final registration under the said guide and had eventually on 22.6.1996 submitted his thesis on the title "Studies on some aspects of ionosphere over Gauhati during 1979-1990" endorsed by his guide Dr. G.K.D. Mazumdar. Though the plea of the University that the subject on which the Petitioner pursued his research work under both the guides was essentially common on many aspects has been refuted by him, the fact remains that the Research Council in its meeting held on 8.1.1997 had resolved to allow him to get the final registration for Ph. D. degree and submit his thesis independently. He was accordingly registered as such on 14.3.1997. Not only the Petitioner had admitted the receipt of these two communications, he on 11.6.1997 submitted an application for permission to submit his thesis as an independent candidate. Further his letters to the Academic in-Charge of the University following the

communication dated 13.3.1997 conveying the decision of the Research Council as above, do not divulge any semblance of remonstrance over the said decision. Instead thereby, the Petitioner had expressed his thankfulness to the University for having eased his long standing problems pertaining to submission of his thesis. His representations thereafter before various authorities carried his persistent query about the outcome of his thesis so submitted and his distress for the delay in the declaration of the results.

12. While this Court is ill equipped to probe into the controversy as to whether the subject of research work undertaken by the Petitioner under the two guides is similar or not, considering the specialised field of study involved, such an exercise is considered inessential as well for all practical purposes, the thesis submitted by him on 22.6.1996, with the recommendation of his guide Dr. G.K.D. Mazumdar having been abandoned by him in the face of his application seeking permission to do so as an independent candidate on 11.6.1997. Most significantly till immediately prior to the institution of the instant proceeding, the Petitioner had not raised any grievance qua the decision of the Research Council allowing him to submit his thesis independently and/or his registration in such capacity. His application for permission to submit thesis as the independent research scholar also does not carry any demur in this regard. In the above view of the matter, in the opinion of this Court, the Petitioner, by his conduct, is estopped at this point of time to question the decision of the Research Council to permit him to submit his thesis independently. He having submitted to the said decision and acted in terms thereof, he cannot be permitted to turn around and resort to an endeavour to improve his chances, his thesis having been rejected. The Petitioner having taken a conscious decision to submit his thesis independently and to be evaluated as such, he ought not to be allowed to retrace his path.

13. His plea that he had never applied to submit his thesis independently is belied by the document Annexure-XIV to the affidavit in opposition of the University. The Research Council having taken a decision to permit the Petitioner to submit his thesis independently, the same, in the opinion of this Court, signifies non-entertainment of the dissertation submitted by him on 26.6.1996 with Dr. G.K.D. Mazumdar as his research guide. That thesis of the Petitioner was logically rendered non est in law and on facts with the submission of his application to do so independently. For all intents and purposes therefore the Petitioner's thesis was to be and had been rightly assessed as one submitted independently by a research scholar.

14. Significantly the Research Council under Regulation 8 of the Regulations in force at the relevant time was empowered to permit a candidate of the categories referred to therein to submit a thesis for the Ph. D. degree prepared independently. The Petitioner has not furnished adequate pleadings to demonstrate any lack of authority of the Research Council or non-compliance of this provision of the Regulations to establish that the resolution dated 8.1.1997

is vitiated by any such contravention.

15. A plain reading of Regulation 11, which prescribes the method of evaluation of a thesis for Ph. D. Degree makes it abundantly clear that it has to be examined by a Board of Examiners consisting of three external examiners when there are no guides. Regulation 12 deals with the different eventualities in the course of such assessment. Whereas Sub-clause (a), (b) and (c) visibly are applicable to a thesis submitted under a guide (s), Sub-clause (d) contemplates one without one. Under the said sub-clause, if a thesis is recommended by one of the examiners and recommended for resubmission by another and rejected by a third examiner, it is liable to be rejected. In the case in hand, the Petitioner's thesis was rejected by the examiner Prof. P.K. Bhuyan and recommended for resubmission on revision by Prof. P.K. Bhatnagar. The third Examiner Prof. A.B. Kulkarni conditionally recommended the thesis subject to the substantiation by the Petitioner of his findings therein. Having regard to the fact that the Petitioner's thesis is one submitted independently, considering the evaluations made by the three examiners, the impugned decision of rejection of his thesis cannot be said to be in transgression of the Regulations. The Petitioner as such has not questioned the validity or acceptability of the analysis or the appraisals made by the examiners on merits. In this view of the matter, the rejection of his thesis being in terms of Regulation 12(d) of the Regulations cannot be denounced as illegal or flawed.

On a totality of the considerations as above, this Court is therefore constrained to hold that the petition lacks in substance and is therefore dismissed. No costs.