

**(1995) 09 GAU CK 0002**  
**In the Gauhati High Court**  
**Case No : Civil Rule No. 1092 of 1995**

Mohendra Patgiri

APPELLANT

Vs

Governing Body, North Kamrup College

RESPONDENT

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**Date of Decision :** 01-09-1995

**Acts Referred:**

Assam Aided College Management Rules, 1976 — Rule 18, 18

**Citation :** (1996) 1 GLJ 73 : (1995) 3 GLT 460

**Hon'ble Judges :** J.N.Sarma, J

**Bench :** Single Bench

**Advocate :** P.G.Barua, R.Barua, S.Kataki, Advocates appearing for Parties

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## Judgement

1. The petitioner was earlier appointed as a Library Assistant in North Kamrup College, Baghmara. That appointment was approved by the respondent No.3, the Director of Higher Education, Assam, Kahilipara in exercise of the power under Rule 18 of the Assam Aided College Management Employees Rules., 1976. Thereafter, by another resolution Governing Body of the College cancelled that appointment and wanted that to be approved by the respondent No.3. Hence, this writ application.

2. I have heard SH PG Baruah, learned Advocate for the petitioner and Shri S. Kataky, learned Advocate for the respondent Nos. 1 and 2. None appeared for the respondent Nos,3 and 4.

3. The Governing Body has the power to cancel the appointment of a person but at the same time it is expected that the Governing Body which is a public authority must behave like a model employer. It cannot act like a despot, according to its own whims and caprice. In that view of the matter, the respondent No.3 is duty bound to exercise, its. power under Rule 18 by considering all the pros and cons of the matter to find out whether the earlier appointment was a valid appointment, it cannot be cancelled without valid reason/reasons. If that appointment is illegal and without authority of law, then

the authority by showing cogent reasons may cancel an illegal appointment. Without showing any cogent reason the earlier appointment cannot be cancelled by the Governing Body by passing a second resolution, and that cannot be automatically approved by the DPI. There must be a case where the earlier appointment order obtained by a persons is fraudulent and illegal. The Governing Body in such a case has the right to pass a resolution for cancellation of the earlier appointment and such a resolution may be approved by the respondent No.3. If on the other hand it is found that the earlier appointment is sought to be cancelled to show favour to some other employee, then the question of approving such resolution shall not arise at all. The respondent No.3 is to act in a fair reasonable manner and he should apply his mind and consider all the materials. His conduct and discharge of duty must be above board. In appropriate cases even he may have the necessity of giving a hearing.

4. The respondent No.3 shall consider the approval of the resolution by proper application of mind and by giving appropriate reason for cancellation of the earlier appointment order. He is not a rubber stamp but an authority to exercise power in a proper manner as indicated above.

5. With this direction, this writ application stands disposed of.