
(1989) 09 GAU CK 0043
In the Gauhati High Court
Case No : Civil Rule No. 895/86

Shyama Prasad Purkayastha

APPELLANT

Vs

Gauhati University and Others

RESPONDENT

Date of Decision : 21-09-1989

Acts Referred:

Gauhati University Regulations — Regulation 13

Citation : (1990) 2 GLR 172

Hon'ble Judges : W.A. Shishak, J;B.L. Hansaria, J

Bench : Division Bench

Advocate : S.K. Sen and R.P. Sharma, for the Appellant; B.K. Goswami and R.L. Yadav, for the Respondent

Judgement

B.L. Hansaria, J.—The Petitioner undertook a research work on the subject of "S. Radhakrishnan as English Prose Writer". He worked under the guidance of Dr. T.C. Rastogi. The Gauhati University, hereinafter the University, granted final registration in 1979. After the the research work was completed, the thesis was submitted for examination in accordance with the Regulation framed by the University for awarding of Doctorate of Philosophy Degree. These Regulations require preparation of a panel to select the examiners. In the present case, the Ph.D. Committee prepared a panel of five examiners which was approved by the Executive Council. On of the five names in the panel, the Vice Chancellor selected Dr. J.K. Misra, Dr T.R. Sharma and Dr. A.N. Kaul in order of preference. The thesis was sent to the first of the aforesaid two external examiners and to Dr. Rastogi ; the guide. This was on 31.3 1933, whereas the thesis had been submitted on 31.12.82. This delay of three months must have occurred in taking the consent of the two external examiners. The thesis was recommended for awarding the Degree of Ph.D. by Dr. T.R. Sharma and Dr. Rastogi ; the same was, however, not recommended by Dr. J.K. Misra. Confronted with this situation, a need (sic) felt to get the sis examined by a fourth examiner. After a long correspondence, Prof. (Mrs.) P.M. Das was selected for this purpose. On receipt of her consent, the thesis was seat to her for examination. Prof. (Mrs.) Das did

not recommend the thesis. It is because of this, the Degree of Ph.D. was ultimately not conferred on the Petitioner. Feeling aggrieved, the Petitioner approached this Court sometime in 1986.

2. Though a grievance has been made in the petition that the thesis was kept in cold storage for about three years without complying with the mandatory requirements, we are not in a position to accept this allegation inasmuch as from the affidavit filed by the University authorities and from the records produced before us, we are satisfied that the concerned authority had been taking steps in their effort to obtain the consent of the external examiners selected for the purpose. The examiners themselves also took sometime in giving their opinions. The further allegation in para 12 of the petition that the records were manipulated is rather unfortunate, inasmuch as we do not find any trace of such manipulation.

3. The real point for examination is whether the present is a case governed by Regulation 13(c) or 13(d) of the Gauhati University Regulations for the Degree of Doctor of Philosophy (Ph. D.), hereinafter called the Regulations, We may quote this provision:

13 (a) *** **

(b) *** **

(c) If the thesis is recommended for the Degree by two of the examiners but not by the third, the candidate may be allowed to resubmit the thesis after necessary revision within six months on payment of the full fee prescribed.

(d) If the thesis is recommended by one of the external examiners and not by the other examiners it may be referred to a fourth examiner from the approved panel by the Vice-Chancellor on the recommendation of the guide. The recommendation of the fourth examiner shall be final. This will however not apply to those thesis which have been permitted resubmission after necessary revision.

A harmonious reading of the aforesaid two provisions would show that Regulation 13(o) gets attracted when the two external examiners recommend the thesis but the same is rejected by the guide. In such a situation, a candidate has to be allowed to resubmit his thesis after necessary revision. On the other hand, if Regulation 13(d) were to hold the field, the choice left with the authority is to refer the thesis to a fourth examiner, as was done in the present case. We have taken this view because Regulation 13(d) is specific on the question that it would apply when the thesis is recommended by one external examiner and rejected by the other external examiner which was the case in the present matter. Regulation 13(c) is, however, vague on the question as to which of the two examiners must recommend the thesis to get it attracted. The University must remove the vagueness of Regulation 13(e). But if Regulation 13(c) if read with Regulation 13(d), it becomes somewhat clear that Regulation 13(c) would get attracted

when the recommendation is by two external examiners and is rejected by the guide who is called an internal examiner.

4. As in the present case, the thesis had been recommended by one external examiner and rejected by the other, we are satisfied that the University took the correct position in law by referring it to the fourth examiner who was Prof. (Mrs.) Das in the present case, who ultimately did not recommend the research work for awarding the Degree of Ph.D.

5. In the aforesaid view of the matter, we are of the opinions that no illegality was committed by the University in following Regulation 13(d) and in ultimately refusing to award the Degree of Ph.D. on receipt of the opinion of Prof. (Mrs.) Das.

6. Before parting, it may be stated that an observation has been made by this Court on 11.4.89 that the Petitioners if he so desires, could opt for considering his thesis for conferment of M. Phil, Degree. We have been told by Sri Sharma that the Petitioner has not accepted this option. It would however be open to the Petitioner to reconsider the matter and to opt for awarding of M. Phil, Degree even now. On receipt of option, the authorities would follow the procedure and thereafter decide whether the thesis submitted is fit for awarding M. Phil Degree.

7. The petition is disposed of accordingly.