

GAHC010010582023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/300/2023

KALYAN BURAGOHAIN AND ANR
S/O. PADMA BURAGOHAIN, R/O. CHETIA VILLAGE, DHAKUWKHANA,
HOUSE NO.89, DIST. LAKHIMPUR, ASSAM.

2: ROBIUL HUSSAIN
S/O. SABAR ALI
R/O. ADURIPARA
DIST. BARPETA
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI-781006, ASSAM.

2:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
HIGHER EDUCATION DEPTT.
DISPUR
GUWAHATI-781006
ASSAM.

3:THE DIRECTOR OF HIGHER EDUCATION
KAHILIPARA MAIN ROAD
JATIA
GUWAHATI-781019.

4:THE VICE CHANCELLOR
GAUHATI UNIVERSITY
GOPINATH BORDOLOI NAGAR
JALUKBARI
GUWAHATI
ASSAM
781014.

5:THE PRINCIPAL

B.R.M GOVT. LAW COLLEGE
PANJABARI
GUWAHATI
781037
ASSAM.
6:THE ADMISSION COMMITTEE
B.R.M GOVT. LAW COLLEGE
PANJABARI
GUWAHATI
781037
ASSAM

Advocate for the Petitioner : MR D MEDHI
Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

27.01.2023

Heard Mr. P R Sarma, learned counsel for the petitioners and Mr. K Gogoi, learned Standing counsel, Higher Education Department, Assam for the respondent Nos. 1 to 3.

Petitioners herein are the students of three years LL.B. course in Bishnu Ram Medhi Government Law College at Panjabari, Guwahati (hereinafter referred to as said college/BRM Government Law College) and are pursuing their 5th semester in that course. Petitioner No. 1's Roll Number is 39 and that of the petitioner No. 2 is 102 in their three year LLB course in the said college.

The authorities of the said BRM Government Law College vide No. BRMGLC.Notice/2002/2022-23/652/653 dated 19.09.2022 notified its students that Rs. 2000/- has been enhanced in the existing fees structure for the academic session 2022-23 as affiliation Fee to Gauhati University and Bar Council Fee and that said one time enhancement has been incorporated as directed by resolution of a meeting convened by the teaching and non-teaching staff of said college on 14.07.2022 in presence of its Principal.

By a notice dated 21.09.2022, the Principal of BRM Government Law College

notified its eligible students to take admission into 3 year LLB, 3rd & 5th semester, 5 year B.A. LLB, 3rd, 5th, 7th & 9th semester and LLM, 2nd & 4th semester for the academic session 2022-23 on or before 30.09.2022.

By another notice dated 29.09.2022 the Principal of said college notified its eligible students to take such admission for the academic session 2022-23 by extending the date upto 17.10.2022 clarifying that no student will be allowed for such admission for the session 2022-23 after 17.10.2022.

Further, by a notice dated 19.10.2022, the Principal of said college extended the last date of admission of various semesters of 3 year LLB and 5 year B.A. LLB and LLM courses 2022-23 up to 29.10.2022.

Both the petitioners on 31.10.2022 deposited Rs. 8,500/- in the Canara Bank Account No. 24321010000181 of the BRM Government Law College by depositing such amount in the Panjabari and CBSE Main Branches of said Canara Bank, respectively, pursuant to which the concerned branches of said Canara Bank had given duly signed receipt foil to the petitioners, respectively.

It is submitted that the Principal of said BRM Government Law College vide Notice under No. BRMGLC/Notice/2022/808-809 dated 22.12.2022 notified the Roll Numbers of its students of different semesters of 3 year LL.B. and 5 Year B.A., LL.B. courses who have not taken admission for the session 2022-23, in 3 year LL.B. 5th Semester course, including the Roll Numbers 39 and 102 that belong to the petitioners, respectively, categorizing them to be Non-collegiate.

Further, the Principal of the college on 28.12.2022 issued a notice notifying the Roll Numbers of its 3 year LL.B. 5th semester who were not allowed to fill examination forms for the End Semester Examination, 2022 that includes Roll Nos. 39 and 102 of the petitioners.

Petitioners have also brought to the notice of the Court that the Gauhati University on 11.01.2023 have notified the programme of 3 Year LL.B./LL.B (Honours) Course, Fifth Semester Examination, 2022 to be held in the afternoon from 01:00 PM

to 04:00 PM from 3rd of February, 2023.

Said BRM Government Law College is affiliated to Gauhati University. As the authorities of said college did not allow them to fill up their forms for their ensuing 3 year LL.B. 5th End Semester Examination, 2022 since the authorities concerned of said college on 22.12.2022 have notified that the petitioners have not taken admission for the academic session 2022-23, holding them to be Non-collegiate, as such they submitted that such actions on the part of the authorities of said BRM Government Law College are arbitrary and illegal.

Petitioners stated that Students Union of said college requested its Principal to extend some more time to deposit the requisite admission fee, but the authorities of the college did not consider.

It is also submitted by the petitioners that they are from families whose financial conditions are not that sound for which they failed to deposit the requisite admission fee for their 3 year LL.B. 5th Semester for the session 2022-23 in favour of said college on 29.10.2022.

However, on collecting the requisite amount, both the petitioners on 31.10.2022 duly deposited the requisite admission fee for the 3 year LL.B. course for the academic session 2022-23 in the bank account of said college.

They further stated that they submitted representation before the Principal of the BRM Government Law College to accept their admission for the session 2022-23, stating that they had deposited the requisite admission fee in the bank account of said college on 31.10.2022, requesting the authority of said college to allow them to take admission in the 5th semester 3 Year LL.B. course for the session 2022-23.

Since the respondent authorities did not give any heed to their request, the petitioners have filed this writ petition praying amongst others, to direct the authorities of respondent BRM Government Law College (i) to take regular admission of the petitioners into 3 year LL.B. 5th Semester for the session 2022-23 in that college, (ii) to revoke the Non-collegiate status of the petitioners and to allow them to take regular

classes and (iii) to set aside and quash the Notice dated 28.12.2022 issued by the authorities of the BRM Government Law College denying them to fill up examination forms for the End Semester Examination, 2022.

On behalf of the respondents in the Higher Education Department as well as the BRM Government Law College, Mr. K Gogoi, Standing counsel, Higher Education Department on instruction submitted that pursuant to the notification No. BRMGLC/NOTICE/2022/677-679 dated 15.10.2022 issued by the authorities of said college, regular classes of 3 year LL.B. 5th Semester course for the session 2022-23 commenced with effect from 21.10.2022.

Mr. Gogoi also submitted that on receipt of representation from the Students Union of said BRM Government Law College on 13.10.2022 the authorities of the said college by notice dated 19.10.2022 extended the date of admission of various semesters of 3 year LLB and 5 year B.A. LL.B. and LL.M. courses 2022-23 up to 29.10.2022.

On instruction of the authorities of the respondent college, Mr. Gogoi submitted that up to the last date of submission of admission fee, i.e., 29.10.2022, the authorities of said college did not receive any applications from the petitioners requesting the authorities concerned to grant some more time enabling them to deposit their admission fee for the session 2022-23.

However, it is admitted by the college authorities that on 10.11.2022 and 31.10.2022 it received two applications from the petitioner Nos. 1 and 2, respectively.

Mr. Gogoi, on further instruction submitted that had the college authority received any such application on or before 29.10.2022 from the petitioners for extension of time to deposit the necessary admission fee, then it could have considered their cases.

Relying on a decision of a Division Bench of the Hon'ble Delhi High Court in the case of *Guru Gobind Singh Indraprastha University -Vs- Naincy Sagar and Another* decided on 19.11.2019 as well as decisions of this Court in WP(C) No. 3589/2019 *Partha Pratim Saikia -Vs- Gauhati University and 5 Others* decided on 14.06.2019 as

well as WP(C) No. 4269/2019 decided on 02.09.2021, *Partha Pratim Saikia -Vs- Gauhati University and 5 Others*, Mr. Gogoi, Standing counsel, Higher Education for the respondent authorities submitted that no relaxation can be given to the petitioners for their admission.

Placing the decisions of this Court dated 14.06.2019, 02.09.2021 as well as the Delhi High Court dated 19.11.2019, noted above, Mr. Gogoi, learned Standing counsel, Higher Education submitted that as the petitioners failed to deposit their admission fees within the time fixed by the authorities of said college and that as they did not submit any application before the authorities of said college on or before 29.10.2022, the last date of depositing admission fee for the 3 year LL.B. 5th Semester for the session 2022-23, therefore, the petitioners are not entitled for any kind of relaxation to allow them to deposit their said admission fee. Therefore, the decision of the authorities of BRM Government Law College in notifying that they have not taken admission for the session 2022-23 vide notice dated 22.12.2022 and the notice dated 28.12.2022 in not allowing them to fill up examination form for the End Semester Exam, 2022, considering them to be Non-collegiate does not call for any interference from the Court.

On perusal of the decisions cited by Mr. K Gogoi, Standing counsel, Higher Education, noted above, it is seen that those relate to attendance of a law student in a particular academic year and the requisite minimum percentage of attendance of a law student as have been specified by the Bar Council of India Act, 1961.

In the case in hand, the authorities of BRM Government Law College on 19.10.2022 notified 29.10.2022 as the last date of depositing admission fee of various semesters of 3 year LL.B., 5 year B.A., LLB and LL.M. courses for the session 2022-23, whereas the petitioners on 31.10.2022 deposited the required admission fee for their 5th semester 3 years LL.B. course for the session 2022-23 in the Canara Bank account of the said college, which have been duly received.

Petitioners have categorically stated because they failed to collect the requisite amount of admission fee by 28.10.2022, they could not deposit the same on

29.10.2022 and after collecting the required amount, they immediately deposited the amount on 31.10.2022 in the Bank Account of said college.

It is also seen from the calendar of the year 2022 that 29.10.2022 was Saturday and 30.10.2022 was Sunday, a Holiday, whereas 31.10.2022 was Monday, the first working day of that week.

We have also seen that the authorities of the BRM Government Law College on 19.09.2022 for the first time informed the students of enhancement of admission fee by Rs. 2000 in the existing fees structure.

Considering that 29.10.2022 was the last date of payment of admission fee for the session 2022-23 as fixed by said college, 30.10.2022 being Sunday and that they deposited the requisite amount in favour of said college for their admission for the session 2022-23 on 31.10.2022, it is found that there was a delay of only one day on the part of the petitioners to deposit their admission fee for that session in said college, which cannot be considered as deliberate; whereas the authorities of said BRM Government Law College only on 22.12.2022, after 54 (fifty four) days from 29.10.2022 issued the impugned notice notifying that the petitioners did not take admission in the 3 years LL.B. 5th semester course for the session 2022-23.

We have seen that the authorities of the respondent college have not returned the admission fee received from the petitioners to them, either depositing the said amount to their respective bank accounts or returning the said amount by cash or cheque to them, till date.

The Court is also aware of the fact that for not depositing their admission fee for the session 2022-23 by 29.10.2022, i.e., on the notified last date of depositing such fee, the respondent college authority made the petitioners Non-collegiate without considering the delay of one day, noted above and that the college authority barred them from filling up of their examination forms for their ensuing 3 year LL.B. End Semester Examination, 2022 for which the petitioners are going to lose their valuable academic year.

The Court therefore, is of the view that the decisions cited by Mr. Gogoi,

Standing counsel, Higher Education are not applicable in the present case.

Considering entire aspect of the matter, the Court accordingly condoned the delay of one day of the petitioners with regard to depositing their admission fee for the session 2022-23 in 3 Year LL.B.5th semester in said college.

Hence, the impugned Notice under No. BRMGLC/Notice/2022/808-809 dated 22.12.2022 issued by the Principal of said Bishnu Ram Medhi Government Law College, Guwahati with regard to the petitioners, namely, Kalyan Buragohain, son of Padma Buragohain and Robiul Hussain, son of Sabar Ali, students of 3 Year LL.B. course of said college with Roll Numbers 39 and 102, respectively, notifying that they had not taken admission in 3 Year LL.B. 5th semester for the session 2022-23 in that college, is hereby set aside and quashed.

Consequently, categorizing the petitioners as Non-collegiate for not depositing admission fee by 29.10.2022 towards their admission in 3 Year LL.B. 5th semester for the session 2022-23 in said college is also set aside and quashed.

As a result the respondent authorities shall allow the petitioners to take up the 3 Year LL.B. 5th semester examination.

With the above observation and direction, this writ petition stands allowed to the extent above.

JUDGE

Comparing Assistant