

GAHC010124392022



IN THE GAUHATI HIGH COURT

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

WRIT PETITION (C) NO.4471 OF 2022

PETITIONER:

Mr. Sheikh Nekibuddin Ahmed,

BY ADVOCATES:

Mr. B.D. Das, Sr. Advocate,
Ms. R. Deka, Advocate

RESPONDENTS:

- 1. The Principal Secretary,**
Health and Family Welfare Department to the Govt. of Assam,
Dispur, Guwahati-781006.
- 2. The Director of Medical Education,**
Assam, Khanapara, Guwahati-22.
- 3. The Principal cum Chief Superintendent,**
Guwahati Medical College and Hospital, Bhangagarh,
Guwahati-781032.
- 4. The Academic Registrar,**
Gauhati University,
Jalukbari, Guwahati-781014.

5. Srimanta Sankardeva University of Health Sciences,

Represented by Academic Registrar,
2nd Floor, Gauhati Medical College Building,
Gauhati Medical College,
Hill Top Road, Narkasur Hilltop,
Bhangagarh, Guwahati, Assam – 781032.

6. The Academic Registrar,

Srimanta Sankardeva University of Health Sciences,
2nd Floor, Gauhati Medical College Building,
Gauhati Medical College,
Hill Top Road, Narkasur Hilltop,
Bhangagarh, Guwahati, Assam – 781032.

7. National Medical Commission,

Represented by its Chairman, Pocket-14,
Sector-8, Dwarka Phase-1, New Delhi-110077,
Undergraduate Medical Education Board,
National Medical Commission, Pocket-14,
Sector-8, Dwarka Phase-1, New Delhi-110077.

BY ADVOCATES:

Mr. B. Gogoi, SC, Health
Mr. P.J. Saikia, SC, GU
Mr. A.M. Bora, Senior Advocate, for respondent No.7
Mr. D.K. Baidya, Advocate.

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

Date of hearing : 16-06-2023

Date of Judgment : 20.06.2023

J U D G M E N T A N D O R D E R

Heard Mr. B.D. Das, learned Senior counsel, assisted by Ms. R. Deka, learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned Standing Counsel, Health Department, Government of Assam for respondent Nos.1, 2, 3, 5 and 6; Mr. P.J. Saikia, learned Standing Counsel, Gauhati University, for respondent No.4 as well as Mr. A.M. Broa, learned Senior counsel, assisted by Mr. D.K. Baidya, learned counsel for respondent No.7/National Medical Commission.

2. The petitioner was admitted in the First year MBBS Course at Gauhati Medical College for the Session 2009-2010. The petitioner, accordingly, paid all the necessary fees in connection with his admission. However, the petitioner met with an accident and sustained vehicular injury and, thereafter, he was suffering from psychosomatic disorders and tuberculosis for which the petitioner could not regularly attend his classes. After recovery from his ailments, the petitioner submitted a representation dated 11.02.2020 before the Academic Registrar of Gauhati University through the Principal of Gauhati Medical College seeking permission to resume his studies. The representation of the petitioner was, however, rejected by the Academic Registrar, Gauhati University by letter dated 03.03.2020 stating that after the admission of the petitioner in MBBS Course in 2009-2010, registration was not done in Gauhati University and there is no record in the Gauhati University about the admission of the petitioner in the said course. Therefore, the University cannot allow the petitioner to resume his studies in the MBBS course, 2009-2010.

3. Being aggrieved, the petitioner is before this Court by way of the present writ petition.

4. Learned Senior counsel for the petitioner submits that as the petitioner did not appear in any examinations, his registration would not be available in the Gauhati University and, therefore, he should be allowed to resume his studies from the First

Year of the MBBS course in the next/immediate semester. The chain of unfortunate events which took place from 2010 to 2019 were beyond the control of the petitioner and the respondents cannot deprive the petitioner from finishing his MBBS course purely on technicalities and if the petitioner is not allowed to complete his studies tremendous prejudice would be caused to the petitioner as the petitioner does not possess the requisite age to again appear in the medical examinations.

5. To a pointed query made by this Court, Mr. A.M. Bora, learned Senior counsel appearing for the National Medical Commission as to whether there is any bar in respect of the petitioner to complete his MBBS course, Mr. Bora submits that under the Graduate Medical Education Regulations, 1997 (as amended), a learner, who has joined the MBBS course prior to the year 2019-2020 Academic Session, there is no bar in completing the MBBS course. However, for a student, who had enrolled after 2019-2020 Academic Session, there is a cap for 10 years for completing the MBBS course. He, therefore, submits that in respect of the petitioner, there is no outer limit for the petitioner to complete his MBBS course provided that he has enrolled and started pursuing his studies prior to 2019.

6. Mr. B. Gogoi, learned Standing Counsel, Health Department, on the other hand, submits that after the petitioner took his admission in the MBBS course for the Session 2009-2010, the petitioner has not been attending classes nor has he appeared in any examinations till date and, therefore, after a gap of 13 years, the petitioner cannot be permitted to resume his MBBS course in view of his earlier selection. Further, he submits that if the petitioner is admitted in the First year MBBS course in the next/immediate semester, he would be depriving some deserving candidates from getting admission and, therefore, the petitioner cannot be admitted. While appreciating that the petitioner has not been keeping well for a long period of time, the same would, however, not come to his rescue to provide him a medical seat for the next immediate semester.

7. After hearing learned counsel for the parties and on consideration of the materials available on record, this Court has noticed that after the petitioner took admission in the MBBS course for the year 2009-2010, the petitioner has not been attending to his classes due to his illness and the petitioner did not appear in any examinations. For this reason, the Gauhati University also has no record with regard to the registration of the petitioner. What is noticed is that it is almost 13 years after the petitioner took his admission in the First year MBBS course for the Session 2009-2010. Permitting the petitioner to be admitted in the next semester for the Session 2023-2024 would amount to depriving the candidates who have already been selected for the same.

8. In that view of the matter, I am unable to accept the submission of learned Senior counsel for the petitioner to permit the petitioner to be admitted to the First year MBBS course for the next/immediate semester.

9. In view of the discussions made here-in-above, I find no merit in this writ petition and the same is accordingly dismissed.

10. No costs.

JUDGE

Comparing Assistant