

GAHC010275192018



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

Case No. : WP(C) 8566/2018

1:AMIT KUMAR KHOIWAL
S/O SRI KAILASH CHANDER KHATIK, R/O SARJU BANSHI VILLA, 11-I-8,
TILAK NAGAR, BHILWARA, RAJASTHAN, PIN 311001.

VERSUS

1:THE INDIAN INSTITUTE OF TECHNOLOGY GUWAHATI
REP. BY ITS DIRECTOR (WHO IS THE CHAIRMAN OF THE SENATE AND EX-
OFFICIO MEMBER OF THE BOARD OF GOVERNORS OF INDIAN INSTITUTE
OF TECHNOLOGY GUWAHATI), GUWAHATI, ASSAM. PIN- 781039.

Advocate for the Petitioner : MS. D GHOSH

Advocate for the Respondent : SC, IIT

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

JUDGMENT

Date : 19-12-2018

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Mr. A.K. Dutta, learned counsel for the IIT Guwahati.

2. The petitioner who appeared in the Joint Entrance Examination for the year 2011 was offered a seat in Engineering Course of B.Tech degree in the IIT (Indian Institute of Technology) Guwahati as per the said allotment letter dated 10.07.2011.

3. But having so admitted, the petitioner could not perform well in the Semester-I

examination and he secured Cumulative Performance Index (hereinafter referred to as CPI) of 1.67, whereas, the minimum required CPI was 4 warranting letters issued to the petitioner for improving his performance. Similarly, in the Semester II examination also, the petitioner was unable to obtain minimum CPI 4 and he had secured only 2.63. Be that as it may, the petitioner was also registered for the 3rd semester.

4. In the Semester III, the petitioner could not perform satisfactorily and secured 2.73 out of the required CPI of 4.

Later on, he was allowed to register himself in the 4th semester where also he obtained the CPI 2.43 and could not secure the minimum requirement of 4.

5. In the circumstance, the petitioner was issued a letter of termination dated 26.07.2013 from the IIT Guwahati informing him that his name would be struck off from the rolls of the institute. Thereafter, although the petitioner made an appeal before the IIT authorities on 23.07.2013 for being reinstated in the Semester IV, but his appeal was disallowed.

6. But however, the petitioner remained hopeful that his appeal would be reconsidered and would be reinstated as a student.

In the resultant situation, the petitioner made an appeal that he be allowed to be registered in Semester VI, which the authorities had allowed but because of the circumstance in between, he could join the classes about a month later.

7. In the 6th semester also, the petitioner could not obtain the minimum CPI of 4 and had secured only 2.43. Again, the authorities in the IIT Guwahati informed him that his name would be struck off from the roll of the student. On a further appeal being filed, the petitioner

was allowed to register in Semester VII. But again he could attain his classes much later from the date from which the course had started.

In Semester VII also, the petitioner could not obtain CPI of 4 and secured 2.27.

8. Upon filing further appeals, the petitioner was allowed to be registered himself for the Semester VIII. But he could secure only 2.52 instead of the requirement of CPI of 4.

As regards his registration in Semester IX, the same was not accepted by the authorities and in a similar circumstance was also not allowed to be registered in the Semester X.

9. In the aforesaid background, the claim of the petitioner for being reinstated was given consideration in the 135th meeting of the Senate of IIT Guwahati held on 07.09.2018. As per the minutes of the Senate dated 07.09.2018, a conclusion was arrived that despite several opportunities being given, the petitioner had failed to show any improvement in his academic performance and the concerned department had also not recommended in his favour for reinstatement and secondly, the senate did not find any merit to decide the appeal in favour of the petitioner.

10. The said decision of the Senate in the 135th meeting held on 07.09.2018 has been assailed in this writ petition. The petitioner relies upon a pronouncement of the Hon'ble Supreme Court in **Avinash Singh Bagri and Ors. –vs- Registrar. IIT Delhi** rendered in (2009) 8 SCC 220, wherein, paragraph 45 it was held as under:-

“ Considering the various aspects including the fact that (a) appeal provision is available from the third year and no such facility for the first and second year; (b) duration of study is now extended by spreading over up to eight years; (c) absence of slow paced course; (d) failure to accommodate these petitioners in the summer course in spite of order of this Court;

(e) even candidates who secured lesser grade than the minimum were allowed to go to next academic session by allowing their appeals (authorities are not consistent in considering similarly placed candidates); (f) out of nine students as on date three were not interested and six persons alone want to continue

their course, we are of the view that ends of justice would be fully met by giving one more opportunity to them.”

11. The petitioner contends that he is a person belonging SC community and he is similarly situated as the petitioner before the Supreme Court in the aforesaid judgment.

12. In the judgment by the Supreme Court, a proposition was laid that a candidate from a backward classes is entitled to a special care and attention, more particularly in an institution of Higher Education like that of IIT so that they are able to overcome their inherent disadvantage to compete at that level.

13. In the instant case, it is taken note of that the petitioner who is from a SC community in Rajasthan belongs to a backward community and may also have an inherent disadvantage of competing in an institute of higher education like that of IIT.

14. Following the proposition laid down by the Supreme Court, we are of the view that students like that of the petitioner, if so requires, are required to be given some special care and attention in the institute so that they are able to overcome their inherent deficiencies and are able to compete at par with others.

15. We have taken note of that there is nothing on record to indicate that a special care and attention was given to the petitioner in spite of having fared badly in all the examinations

from Semester 1 to VI and also thereafter. If the petitioner had fared badly, under the proposition laid down by the Supreme Court in Avinash Singh Bagri (supra) as well as under the spirit of the Constitution of India to bring the persons from the backward community to be at par with others, there is also a duty entrusted upon the respondent IIT Guwahati for providing atleast some additional care and attention to the petitioner.

16. By the order dated 14.12.2018, the authorities in the IIT Guwahati were required to inform the Court as regards its view in respect of the decision taken in the 135th meeting of the Senate held on 07.09.2018 vis-a-vis the proposition laid down by the Supreme Court. The authorities have informed the Court today that by the communication dated 17.12.2018 the petitioner is being granted a further opportunity to continue with his studies in the IIT Guwahati by providing certain conditions therein that he shall undertake all the efforts required to come out successful in the course.

17. In view of the communication dated 17.12.2018 we are of the view that no further adjudication is required in the matter and the petitioner be allowed to pursue his studies further. During the tenure of the further opportunity given to the petitioner, the respondent in the IIT Guwahati shall also give him an extra care and attention, as provided by the Supreme Court, so as to enable him to perform better.

18. The writ petition stands allowed to the extent indicated above.

The copy of the order 17.12.2018 is kept on record.

JUDGE

Comparing Assistant