

GAHC010186042023



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

**Case No. : WP(C)/4903/2023**

DR SMITA BARUA DEKA  
W/O- SRI MOON DEKA,  
R/O- VILLAGE- BETONIJHAR, GOROIMARI,  
P.O.- SALONIBARI, TEZPUR,  
DIST.- SONITPUR, ASSAM,  
PIN- 784104.

VERSUS

THE STATE OF ASSAM AND 7 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM,  
DEPARTMENT OF HIGHER EDUCATION,  
DISPUR, GUWAHATI- 781006,

2:THE DIRECTOR  
HIGHER EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-781019.

3:TEZPUR LAW COLLEGE  
REPRESENTED BY ITS PRINCIPAL (I/C)

TEZPUR- 784001  
ASSAM.

4:THE GOVERNING BODY OF TEZPUR LAW COLLEGE  
TEZPUR  
REPRESENTED BY ITS PRESIDENT

TEZPUR- 784001

ASSAM.

5:DR. JOYSANKAR HAZARIKA  
PRESIDENT  
GOVERNING BODY OF TEZPUR LAW COLLEGE

TEZPUR  
784001  
ASSAM.

6:DR. RUBI DUTTA  
ASSISTANT PROFESSOR-CUM-PRESENTING OFFICER AND SECRETARY  
IN-CHARGE

GOVERNING BODY OF TEZPUR LAW COLLEGE  
TEZPUR

784001  
ASSAM.

7:DR. MANOJ KR. BASUMATARY  
INQUIRY OFFICER  
TEZPUR LAW COLLEGE

TEZPUR  
784001  
ASSAM.

8:THE GAUHATI UNIVERSITY  
REPRESENTED BY ITS REGISTRAR

GOPINATH BORDOLOI NAGAR

GUWAHATI- 781016

KAMRUP(METRO)  
ASSAM

**Advocate for the Petitioner** : MR. A CHAMUAH

**Advocate for the Respondent** : SC, HIGHER EDU

Linked Case : WP(C)/292/2023

SMITA BARUA DEKA  
W/O. SRI MOON DEKA  
R/O. VILL. BETONIJHAR  
GOROIMARI  
TEZPUR  
DIST. SONITPUR  
ASSAM  
PIN-784104.

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM  
EDUCATION (HIGHER) DEPT.  
DISPUR  
GUWAHATI-781006.

2:THE DIRECTOR HIGHER EDUCATION

ASSAM  
KAHILIPARA  
GUWAHATI-781019.

3:THE GOVERNING BODY OF TEZPUR LAW COLLEGE

TEZPUR  
REP. BY ITS PRESIDENT TEZPUR  
DIST. SONITPUR  
ASSAM  
PIN-784001.

4:THE GUWAHATI UNIVERSITY

REP. BY ITS REGISTRAR  
GUWAHATI UNIVERSITY  
GUWAHATI  
KAMRUP (M)  
ASSAM.

5:SRI JOY SHANKAR HAZARIKA

PRESIDENT GOVERNING BODY OF TEZPUR LAW COLLEGE  
TEZPUR.

6:DR. RUBI DUTTA

ASSTT. PROFESSOR  
TEZPUR LAW COLLEGE  
TEZPUR  
DIST. SONITPUR

ASSAM.

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Advocate for : MR D K DAS

Advocate for : SC

EDU appearing for THE STATE OF ASSAM AND 5 ORS.

Linked Case : WP(C)/609/2023

SMITA BARUA DEKA  
W/O MOON DEKA

VILL.- BETONIJHAR  
GOROIMARI  
TEZPUR

DIST.- SONITPUR  
ASSAM  
PIN- 784104.

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
EDUCATION (HIGHER) DEPTT.  
DISPUR  
GUWAHATI- 781006.

2:THE DIRECTOR HIGHER EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI- 781019.

3:THE GOVERNING BODY OF TEZPUR LAW COLLEGE  
TEZPUR  
REP. BY ITS PRESIDENT TEZPUR  
DIST.- SONITPUR  
ASSAM  
PIN- 784001.

4:THE GUWAHATI UNIVERSITY  
REP. BY ITS REGISTER  
GUWAHATI UNIVERSITY  
GUWAHATI  
KAMRUP (M)  
ASSAM.

5:JOY SHANKAR HAZARIKA  
PRESIDENT

GOVERNING BODY OF TEZPUR LAW COLLEGE  
TEZPUR  
SONITPUR  
ASSAM.  
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Advocate for : MR D K DAS

Advocate for : SC

HIGHER EDU appearing for THE STATE OF ASSAM AND 5 ORS.

**BEFORE**  
**HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

**ORDER**

**Date : 17.10.2023**

Mr. U.K. Nair, learned Senior Counsel for the respondent Tezpur Law College submits that the Tezpur Law College is a private institute unaided through any Government funds and therefore, a writ under Article 226 would not be maintainable against the said institute.

2. To substantiate his submission, Mr. Nair relies upon a pronouncement of the Hon'ble Supreme Court in *St. Mary's Education Society and another Vs. Rajendra Prasad Bhargava and others reported in (2023) 4 SCC 498* wherein in paragraph 2 a question had been framed as to whether a service dispute in the private realm involving a private educational institution and its employee can be adjudicated in a writ petition filed under Article 226 of the Constitution and in paragraphs 75.2 and 75.3 it had been held that individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226.

3. Mr. A. Chamuah, learned counsel for the petitioner *per contra* relies upon the provisions of the *Assam Provincialised Colleges and Assam Non-Government College Management Rules, 2001* (in short, Rules of 2001) to substantiate his

argument that the Government has substantial control over the affairs of the Tezpur Law College and therefore, it would be within the realm of Article 226 of the Constitution of India.

4. Mr. U.K. Nair, learned Senior Counsel for the Tezpur Law College refers to Section 1(3) of the Rules of 2001 which provides that the provisions are applicable to Assam Provincialised Colleges and Non-Government Colleges in Assam affiliated by any Central or State University of Assam and in receipt of defines Grants-in-Aid or ad-hoc Grants-in-Aid from the State Government.

5. Heard on the aforesaid issues.

Adjourned, to be listed on 17.11.2023.

**JUDGE**

**Comparing Assistant**