

GAHC010021112024



2026:GAU-AS:2522

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

Case No. : WP(C)/620/2024

SUPRITI BHOWMICK
DAUGHTER OF SOUBIR KUMAR BHOMICK, RESIDENT OF NATUNPARA
COLLEGE ROAD, WARD NO. 16, NEAR ANANDA APARTMENT,
BONGAIGAON, ASSAM, PIN- 783380

VERSUS

THE GAUHATI UNIVERSITY AND 2 ORS
GOPINATH BORDOLOI NAGAR, JALUKBARI, GUWAHATI- 781014,
DISTRICT- KAMRUP (M), ASSAM, REPRESENTED BY ITS REGISTRAR

2:THE CONTROLLER OF EXAMINATIONS
GAUHATI UNIVERSITY
GOPINATH BORDOLOI NAGAR
JALUKBARI
GUWAHATI- 781014
DISTRICT- KAMRUP (M)
ASSAM

3:THE DIRECTOR
INSTITUTION OF DISTANCE AND OPEN LEARNING
GAUHATI UNIVERSITY (GUIDOL)
GOPINATH BORDOLOI NAGAR
JALUKBARI
GUWAHATI- 781014
DISTRICT- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. SURAJIT DAS, MR SARFRAZ NAWAZ,MR S A
BARBHUYAN,MR. A R GOGOI

Advocate for the Respondent : SC, G U,

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER

17/02/2026

Heard Mr. S Das, learned counsel for the petitioner and Mr. P J Phukan, learned Standing counsel, Gauhati University, appearing for the respondents.

2. The petitioner in the present proceedings has presented a challenge to a notice dated 09.10.2023, issued by the Controller of Examination, Gauhati University, inviting applications from candidates/learners for appearing in the Betterment/Back Examination amongst others for Master in Arts course under Gauhati University Center for Distance and Online Education.

3. The grievance of the petitioner is that the said notice had limited the participation in the Betterment/Back Examination to only candidates of the academic Session 2019-2020, thereby, excluding the petitioner from the purview thereof, inasmuch as, she had enrolled for the course during the academic Session 2018-2019.

The petitioner had enrolled for pursuing her Masters in Arts with English as a major subject in distance mode from the Institute of Distance and Open Learning, Gauhati University during the academic Session 2018-2019. The 1st Semester Examination for the said course was held from 10.03.2019 to 07.04.2019. Out of the 5 (five) papers involved in the 1st Semester, the petitioner had appeared in 4 (four) of the papers. However, in the 3rd paper, examination for which was held on 24.03.2019, it is projected that the petitioner was unable to appear as she had appeared in the competitive examination for the post of Judicial Assistant conducted by this Court on the same day. Out of the 4 (four) papers, wherein, the petitioner had appeared, it is projected that the petitioner had cleared only 2 (two). Accordingly, the result of the petitioner for the 1st Semester was declared to be incomplete.

It is projected that in terms of the procedure mandated, a student is to pass all his/her Semester Examinations, including repeat and betterment chances within 4 (four)

years from the date of admission into Master of Arts in the 1st Semester course. A student is also projected to get a maximum three chances to clear a paper in a particular semester.

The University authorities on account of outbreak of Novel Corona Virus (COVID-19) in the year 2020 had not conducted any examination, although, a notice was issued on 05.03.2020 for the Back/Betterment Examination for the 1st Semester course in Master in Arts (English), which was, thereafter, being extended from time to time. The examination was actually held in the month of January, 2021. The petitioner did not appear in the 1st Semester Back/Betterment Examination and has projected that at the relevant point of time, she was appearing in her 3rd Semester Examination, which was also held at the same period of time. Thereafter, the 1st Semester Back/Betterment Examination was notified in the year 2022 and the said examination was held in the year 2022 itself. The petitioner projects that she being involved in a divorce proceedings instituted before the Court of the District Judge, Bongaigaon, was not in a position to appear in the said examination.

The petitioner projects that she had cleared all the semester examinations in her Master in Arts course in English, but on account of not clearing her papers in the 1st Semester, the results of the petitioner was withheld.

The University authorities, thereafter, had issued the notice dated 09.10.2023, inviting applications from candidates/learners for appearing in Betterment/Back Examination, amongst others for Master in Arts course. However, the said notice was limited to the candidates/learners of the academic Session 2019-2020. The learners/candidates of the session 2018-2019 having been left out, from the purview of the said notice dated 09.10.2023, the petitioner has instituted the present proceedings, praying for granting an opportunity to appear in the Betterment/Back Examination in the year 2023 also.

4. Mr. S Das, learned counsel for the petitioner, after reiterating the facts, noticed, hereinabove, has submitted that the petitioner, herein, having not availed two of the opportunities that was available for appearing in the Betterment/Back Examination for the papers, which she had not cleared in the 1st Semester course, the petitioner could not have

been held to have exhausted her three chances, which is permissible to be granted to a candidate/learner for clearing the semester course.

Mr. Das, learned counsel for the petitioner submits that the reasons assigned by the petitioner, which had prevented her from appearing in the two chances as available for taking the Betterment/Back Examination with regard to the papers, which she had not cleared in the 1st Semester Examination, being genuine reasons, the respondent University could not have presumed that the petitioner had exhausted the two further chances available to her.

In the above premises, Mr. Das, learned counsel for the petitioner submits that considering the reasons existing preventing the petitioner from appearing in the two chances that were available to her for the Betterment/Back Examination for clearing the papers of a 1st Semester course and also the fact that the petitioner had cleared all her other semester examinations, this Court would be pleased to direct the Gauhati University authorities to permit a chance to the petitioner to appear for betterment/back examination for the papers of the 1st Semester, which she had not cleared.

5. Per contra, Mr. P J Phukan, learned Standing counsel, Gauhati University has submitted that a candidate is allowed four years maximum period for clearing a Master degree program of study in the University. He submits that the petitioner during the period of 4 (four) years, permissible for completion of a Master in Arts degree course, is required to be extended with three opportunities to clear a paper of a particular semester. The petitioner in the present proceedings has not denied that there were three clear opportunities available to her for clearing her 1st Semester papers. The non-availing of the opportunities by the petitioner, for any reason that may exist, would not entitle the petitioner to a further chance in violation of the norms prescribed in this connection by the University.

In this connection, Mr. Phukan learned Standing counsel, Gauhati University has placed reliance on a decision of the Division Bench of this Court in the case of *Jyoti Mohan Nath and Others Vs. the Gauhati University and Others* (Judgment and Order dated 16.02.2023 in WA No. 3/2023).

6. I have heard the learned counsels for the parties and also perused the materials available on record.

7. The facts noticed, hereinabove, are not in dispute.

8. The petitioner, herein, was enrolled for the Master in Arts course with English as a major subject in the Distance Education Mode from the Institute of Distance and Open Learning, Gauhati University. The petitioner had enrolled herself for the said course during academic session 2018-2019. The petitioner appeared in her 1st Semester Examination during the months of March-April, 2019.

9. It is seen that the petitioner had not cleared all the papers in her 1st Semester Examination. As per the norms set out for the said course by the University, the petitioner was to be granted two further opportunities for clearing the papers, which she could not clear of her 1st Semester course. The University authorities were to schedule the next examination for betterment/back papers of the 1st Semester Examination of the petitioner in the year 2020. However, on account of outbreak of Novel Corona Virus (COVID-19) and the lockdown ensuing, thereon, no examination could be held in the year 2020. The opportunity that was required to be extended to the petitioner in the year 2020, is found to have been so extended to the petitioner in the month of January, 2021, however, the petitioner did not avail the said opportunity and it is projected that at the relevant point of time, she was appearing in the examination of the papers in her 3rd semester course. The third chance now mandated to be extended to the petitioner was so made available to her during the year 2022. However, the petitioner has projected that at the relevant point of time, she was prevented from undertaking the said examination in the year 2022, inasmuch as, she was involved in a divorce proceeding involving her. The reasons assigned by the petitioner may be genuine, however, the same cannot be permitted to be reckoned for extending a course of study beyond what is normally prescribed.

10. This Court does not find any extra ordinary circumstances arising in the matter, which would mandate exercise of its power under Article 226 of the Constitution of India to issue

direction upon the University authorities to facilitate the petitioner to appear in her 1st Semester Examination for the papers, which she had not cleared, by providing to her a further chance in the matter. The three chances mandated having already been provided in the matter and it being available to be availed by the petitioner, the petitioner having failed to avail the additional two chances, as provided, in the considered view of this Court, would not entitle the petitioner to claim for an extended chance contrary to the norms of the University.

11. The Division Bench of this Court in the case of *Jyoti Mohan Nath* (supra) on a consideration of an issue similar to the one arising in the present proceeding, had drawn the following conclusions:

“10. It is seen that the primary ground urged by the learned counsel for the appellants before us is that there being no time period specified in the prospectus relating to the batch of M.A. and M.Sc. courses of 2016-17 under the Gauhati University Institute of Distance and Open Learning (IDOL) as compared to similar distance programme conducted under the Dibrugarh University and the Krishna Kanta Handique State Open University.

11. The learned counsel for the appellants, however, did not support his contentions by any University/UGC/Government Notification to contend that merely because that the prospectus does not specified any time period, the candidates who have enrolled for a particular courses can avail of any number of chances to clear their backlog/semesters exams. The prospectus of any particular course gives an overview of the course, the papers, the facilities offered by the University/Department, fees, the time scheduled for classes etc. It is not disputed by the appellants that UGC Regulations are equally applicable to Gauhati University Institute of Distance and Open Learning (IDOL). It is also not disputed that under the UGC Regulations, the maximum period for a Distance and Open Learning Programme for M.A./M.Sc course is four years. That apart, the respondents categorically averred in their affidavit to the writ petition, that a candidate will be permitted a maximum of three chances to clear the backlog/semesters examinations. The appellants have not denied such specific averments made by the University by referring to any Rules/Regulations/Notification.

The mere fact that prior batches were allowed extended time to complete/clear backlog papers/semesters examinations cannot be a ground to confer the same benefit to the appellants as the same are not permitted by the Rules/Regulations. The law is well settled that there can be no negative equality.

12. We have given our anxious thoughts to the contentions raised by the parties. We find that the appellants have not been able to make out any case calling for any interference to the Order dated 04.01.2023 passed by the learned Single Judge impugned in the present appeal. The learned Single Judge has considered the matter and has arrived at a finding, which in the facts and circumstances of the present case, we do not find any ground to disagree with the conclusions arrived at by the learned Single Judge in the impugned order dated 04.01.2023 passed in WP(C) No. 7211/2022. Accordingly, we hold that the appeal is bereft of any merit and deserves to be dismissed. The findings arrived at by the learned Single Judge of the impugned Order are sustained.”

12. The conclusions drawn by the Division Bench of this Court in the case of *Jyoti Mohan Nath* (supra) is squarely also applicable to the issue arising in the present writ petition.

13. In view of the above discussion, this Court is of the considered view that the claim made by the petitioner in the present writ petition would not mandate an acceptance and no further chance would be permissible to be granted to the petitioner for clearing her 1st Semester papers, which was not cleared by her during the mandated period.

14. Accordingly, the present writ petition is held to be devoid of any merit and the same stands dismissed. However, there would be no order as to cost.

JUDGE

Comparing Assistant