

GAHC010039542026



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

**Case No. : CRP/37/2026**

RANA GOSWAMI  
SON OF LATE NILAKANTA GOSWAMI, RESIDENT OF RAJABARI, JORHAT,  
DIST- JORHAT, ASSAM, 785014.

VERSUS

THE DIBRUGARH UNIVERSITY AND 3 ORS.  
TO BE REPRESENTED BY ITS VICE- CHANCELLOR, DIBRUGARH, DIST-  
DIBRUGARH, ASSAM, PIN- 786004.

2:THE REGISTRAR  
DIBRUGARH UNIVERSITY  
DIBRUGARH  
DIST- DIBRUGARH  
ASSAM  
PIN-786004

3:THE CONTROLIER OF EXAMINATIONS  
DIBRUGARH UNIVERSITY  
DIBRUGARH  
DIST- DIBRUGARH  
ASSAM  
PIN- 786004.

4:JAGANNATH BAROOAH COLLEGE  
(PRESENTLY CONVERTED TO JAGANNATH BAROOAH UNIVERSITY) TO  
BE REPRESENTED BY ITS VICE- CHANCELLOR  
BARPATRA ALI  
JORHAT  
DIST- JORHAT  
ASSAM  
PIN-78500

**Advocate for the Petitioner** : MR. D BARUAH, MS. P HANDIQUE,MR. P K BORDOLOI  
**Advocate for the Respondent** : MR. K GOGOI(SC, DIB. UNIVERSITY)

**BEFORE  
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**23.04.2026**

Heard Mr. D. Baruah, learned counsel for the petitioner and also heard Mr. K. Gogoi, learned standing counsel for the respondents.

**2.** In this petition, under Article 227 of the Constitution of India, the petitioner has challenged the order, dated 25.11.2025, passed by the learned Civil Judge (Jr. Division) No.1, Jorhat (herein after trial court) in Title Suit No. 11/2021.

**3.** It is to be noted here that vide impugned order, dated 25.11.2025, the learned trial court has rejected the petition No. 1313/2023 filed by the petitioner herein, under Order 12 Rule 4 CPC, for allowing him to issue notice to the defendant for admission of facts.

**4.** The background facts, leading to filing of the present petition, are adumbrated herein below:-

“The petitioner herein, as plaintiff, has instituted a Title Suit, being Title Suit No. Title Suit No. 11/2021, praying for a decree of declaration that the result of the plaintiff, as per result sheet dated 11.09.1981, issued by the Dibrugarh University, under the signature of the defendant No. 3 to different colleges, under Dibrugarh University, including proforma defendant No. 4 i.e. Jagannath Barooah College, Jorhat and the plaintiff's mark sheet, under the signature of the said defendant No. 3, sent to the said college and that the result of the plaintiff as disclosed in the said result sheet and also in the mark sheet are correct and that he had passed the B.Com examination, held in 1981 and that the B.Com degree he holds is a valid one; and also for a decree of declaration that the information submitted, by the office of the

defendant No. 2, vide letter No. DU/PE/PILO/B/5001, dated 28/03/2016, in response to RTI application filed by the applicant, namely Pratap Jyoti Dutta, of Digambar Road, Jorhat based on tabulation sheet was wrong; and for permanent injunction against defendant No. 1, 2 and 3 to correct their tabulation sheet and to issue a regular B.Com pass certificate to him and for temporary injunction and leave under order 2 Rule (3) of the C.P.C. and cost of the suit;

The case of the petitioner is that he was a student of Jagannath Barooah College (Now Jagannath Barooah University), Jorhat in two year Degree course of B.Com, for the session 1978 to 1980 and the B.Com (two year Degree course) examination of the said session was conducted by the Dibrugarh University in the year 1981 which commenced on 06/04/1981. The petitioner's registration number in the said university was 9334 of 1978-79. The admit card, bearing No. 858, was issued by the said university to the petitioner under the signature of the respondent No.3. He appeared in the said examination from Jagannath Barooah College (Now Jagannath Barooah University) which is being impleaded as pro-forma respondent No.4 in the present case. The procedure for publications of results of various examinations, conducted by the Dibrugarh University, is that it sends the result sheet to the respective colleges. The respondent No.1, through respondent No.3, had sent the result sheet, dated 11-09-1981, of B.Com. Examination, 1980 held in April-May 1981, to the Principal of Jagannath Barooah College, Jorhat. In the said result sheet the petitioner was declared as simple pass and his Roll No. 858 appeared at Page No.9 of the result sheet sent by the university to Jagannath Barooah College.

The petitioner had received the original mark sheet issued by the Respondent No.1, under the signature of the Respondent No.3, through

Jagannath Barooah College, Jorhat. The said mark sheet showed detailed marks secured by the petitioner in different subjects, including the marks for the English paper as 21 and internal assessment as 9 and the total was 30. The petitioner was declared as pass in result column of the said mark sheet also. The proforma respondent No.4 had also issued Pass Certificate, dated 26/09/1981, certifying that the petitioner passed the B.Com (two year Degree course) examination, 1980 from that college under Roll No. 858, in pass course, in the subjects mentioned therein.

Thereafter, in the year of 2016, one application, under the Right to Information Act, 2005, was filed before the respondents Dibrugarh University seeking information about the status of B.Com. degree of the petitioner and vide letter No. DU/RG/PILD/B/5001, dated 28/03/2016, furnished a result sheet of the petitioner's B.Com Examination, 1980 held in 1981 where the petitioner was shown as unsuccessful (failed) in the said examination.

Thereafter, the petitioner had serve a legal notice, dated 07/04/2016, to respondents Dibrugarh University and in response to that legal notice the Registrar Dibrugarh University replied to the legal notice, on 10/05/2016, where, in Paragraph No. 4, it is stated that the information furnished as per the Right to Information Act, 2005, which was based on Tabulation Record retained in the Examination Branch of the Dibrugarh University. Further, it is stated that the marks provided to the applicant under the Right to Information Act, 2005 is not a mark-sheet but just information on marks obtained by the petitioner.

Then being aggrieved with the action on part of the respondent Dibrugarh University, providing the result of the petitioner in response to the

application under the RTI Act, 2005, petitioner approached the Court of Civil Judge, Jorhat seeking the relief(s) as aforesaid by filing T.S. No. 49/2017. The respondents in Dibrugarh University had filed their written statement.

Thereafter, due to the extension of pecuniary jurisdiction of the Courts, the Title Suit vide T.S. No. 49/2017 was transferred to the Court of Civil Judge (Junior Division No. 1)/ Munsiff No. 1, Jorhat and the same was re-numbered as T.S. No. 11/2021, and trial is continuing in said court. During the pendency of the said suit, as per provisions of Order 12 Rule 4 of C.P.C, the petitioner had filed an application vide petition No. 1313/2023 (Annexure -5), on 15-06-2023, that he wants to issue Notice to the Respondent/Defendant Dibrugarh University for admission of facts and for that purpose, he seeks leave of the Court to issue necessary queries to the respondent/defendants of Dibrugarh University. Then on 15-06-2023, the learned Court below had fixed the next date on 31/07/2023, for order on the said petition.

Thereafter, the learned Court below had allowed the petition and directed the petitioner/plaintiff to take steps. Thereafter, the petitioner had taken steps by issuing a Notice along with the queries to the respondents in Dibrugarh University under Order 12 Rule 4 of C.P.C. Then on receipt of notice the respondents in Dibrugarh University had filed a petition No. 648/2024, stating that it had received the notice without the queries and then vide order dated 05/04/2024 ,the learned Court below had directed the petitioner/plaintiff, to submit the notice along with the queries to the counsel of the other side and fixed the case on 18/05/2024, for hearing on the petition No. 648/2024, and accordingly, the petitioner had complied with the direction of the learned Court below and furnished the same to the counsel of other side i.e. respondents in Dibrugarh University.

Thereafter, the presiding officer of the court was on leave and as such, no hearing on petition No. 648/2024 was taken place and no effective order was passed by the learned court till 30/10/2025. During the absence of the presiding officer of the court, the respondents in Dibrugarh University did not furnished any reply to the petitioner as per order dated 31/07/2023 and 05/04/2024, passed by the learned court below in connection with the petition under the provisions of Order 12 Rule 4 of C.P.C and no response was filed in the form of Affidavit, in respect of the queries raised by the petitioner/plaintiff in the said Notice.

Thereafter, on 25/11/2025, the learned court without considering the petition No. 648/2024 and petition No. 1313/2023, passed the impugned order stating that considering the facts and circumstances of the case and the response of the defendants No. 1, 2 & 3, issuance of notice to admit facts on the part of the plaintiff appears to be futile exercise, which has already consumed considerable time and therefore, the learned court opined that the suit shall proceed as per law, from the stage prior to that of issuance of notice to admit facts, by the plaintiff. Being aggrieved, the petitioner approached this court challenging the impugned order dated 25.11.2025."

**5.** Mr. Baruah, the learned counsel for the petitioner, submits that basically the impugned order is being challenged on the ground that the learned court below had failed to appreciate the consequences for not providing replies to the queries raised in Notice under Order 12 Rule 4 of C.P.C and had passed the impugned order dated 25.11.2025, on the ground of elapse of time and also it failed to consider the merit of the petitions since gross negligence shown by the respondents Dibrugarh University in furnishing reply to the Notice under Order 12 Rule 4 of CPC. Mr. Baruah also submits that the learned court below has failed to

appreciate the facts of the suit and the gravity of the quarries raised in Notice under Order 12 Rule 4 of C.P.C, but only consider the lapse of time, in passing the impugned order. He also submits that the learned court below has committed grave error in passing the impugned order dated 25.11.2025, without considering the merit of the petition No. 1313/2023, and on such count the impugned order dated 25.11.2025, is liable to be set aside and quashed and therefore, contended to allow this petition.

**6.** Per contra, Mr. Gogoi, the learned standing counsel for the respondents in Dibrugarh University has supported the impugned order. He submits that the impugned order suffers from no infirmity or illegality and it requires no interference of this court. Further, Mr. Gogoi submits that the respondent University had filed its written statement, wherein it had categorically denied the statement and averments made in the plaint and nowhere in the written statement, had it admitted any part of the statement so made in the plaint by the petitioner. And in that view of the matter the learned trial court had rightly observed that issuance of notice for admitting the facts is a futile exercise. In support of his submission Mr. Gogoi has referred to a decision of Hon'ble Supreme Court in **Rajiv Ghosh vs. Satya Naryan Jaiswal** reported in **2025 SCC OnLine SC 751**, specially to paragraph 39, wherein Hon'ble Supreme Court has held that Rule 6 of Order XII of the CPC authorizes the court to enter a judgment, where a claim is admitted and to pass a decree on such admitted claim and this can be done at any stage.

**7.** Having heard the submission of learned counsel for both the parties, this court has carefully gone through the petition and the documents placed on record and also perused the impugned order, dated 25.11.2025 and the decision referred by Mr. Gogoi, learned standing counsel for the respondents in Dibrugarh University.

**8.** In order to deal with controversy at hand, with greater precision, this court

deemed it proper to extract the impugned order herein below:-

Title Suit No. 11/2021

ORDER

25.11.2025

Both parties are represented.

Heard Learned Counsel for the Plaintiff.

Considering the facts and circumstances of the case and the response of the defendant No. 1, 2 and 3, issuance of notice to admit facts on the part of the Plaintiff appears to be futile exercise, which has already consumed considerable time. I am therefore of the opinion that the suit shall proceed as per Law from the stage prior to that of issuance of notice to admit facts, by the Plaintiff.

Record reveals that prior to issuance of notice to admit facts, the suit was at the stage of S.B.P.H.

Accordingly, both parties are directed to take step before preliminary hearing, if any.

Fixing 17.12.2025 for S.B.P.H.

Sd./

Civil Judge(Jr.Division No.1)

9. Thus, a cursory perusal of the impugned order indicates that the learned court below had not outrightly rejected the petition. But, it appears that the learned trial court had practically abandoned that stage of the suit, on the ground that issuance of notice to admit facts, had already consumed considerable time and as such issuance of notice to admit facts on the part of the plaintiff held to be a futile exercise. Another ground, which was taken not of was the record reveals that prior to issuance of notice to admit facts the suit was at the stage of S.B.P.H.

**10.** It is, however, not in dispute that the petition No. 1313/2023, was filed on 15.06.2023. And the impugned order was passed on 25.11.2025, after more than two years. A perusal of the Rule 4 of Order XII CPC reveals that an application under said Order and Rule can be filed whenever a party wants to obtain deemed admissions from another party on a specific facts in a suit, so that issues can be narrowed and unnecessary proof can be reduced. And such a petition can be filed by any party to the suit. And though the petition may be filed at any time, yet it should be not later than nine days before the day fixed for the hearing of the suit, by serving a written notice to admit such specific facts to the other party. Further, it appears that the party, to whom the notice is given, must have to admit or refuse to admit within six days, or such further time, so allowed by the court. Else, the facts are deemed admitted and the refusing party may have to pay costs of proving those facts, whatever the result of the suit.

**11.** Thus, it becomes apparent that the object of an Order 12 Rule 4 petition is to narrow down the issues concerning the genuine dispute.

**12.** Notably, when the petition No. 1313/2023, was filed on 15.06.2023, the suit was already at the stage of SBPH. The Rule provides for filing of such an application at any time, however, not later than nine days before the day fixed for the hearing of the suit. Therefore, it cannot be said that the time line provided in the said Rule is adhered to by the petitioner herein. If the notice is served after this cut-off date, the opposite party is not bound to treat it as mandatorily requiring admission within 6 days, and the court may refuse to treat the said facts as admitted or may decline to entertain the application. And if the reply to the notice is not filed in time i.e. within 6 days or such further time as the court allows.

**13.** Further on careful perusal of the Rule 4 indicates that there shall not be deemed admission of facts, unlike Order XII Rule 2A (which applies to notices to

admit documents, where non-denial can lead to the document being deemed admitted). The Rule does not deem the facts as admitted if the defendant neglects or refuses to reply. The plaintiff is still required to prove the facts through evidence. Thus, the consequence of non-submission of the reply is that the defendant has to bear the costs incurred by the plaintiff in proving those specific facts at trial. This applies regardless of who ultimately wins the suit, unless the court directs otherwise (i.e., exercises discretion to relieve the defendant of this burden). The practical implication is that the plaintiff must still lead evidence to prove the facts if they are not admitted. However, the court may award these costs at the time of final judgment or separately.

**14.** Now, advertent to the facts herein this case, this court finds that after the notice being issued to the respondents and on receipt thereof, the respondents had filed a petition No. 648/2024 stating that it had received the notice without the queries and then prays for dismissal of the notice. Thereafter, vide order dated 05/04/2024, the learned court below had directed the petitioner/plaintiff to submit the notice along with the queries to the Counsel of the other side and fixed the case on 18/05/2024, for hearing of the petition No. 648/2024, and accordingly, the petitioner complied with the direction made by the learned court below and furnished the same to the counsel of other side i.e. respondents in Dibrugarh University. These are undisputed facts pleaded in para No. 15 of the present petition.

**15.** Thus, it becomes apparent that the notice under Rule 4 of Order XII CPC was admittedly served upon the defendants. Further from a perusal of the order of the learned trial Court reveals that the queries which was, statedly, not enclosed with the notice, was furnished at the court by the learned counsel for the petitioner and the same was furnished to the counsel for the respondent. Thereafter, the learned court had posted the case for hearing on the petition filed for dismissal of the

notice.

**16.** Since, the petitioner had completed its task, even though not within the stipulated period of 9 days, now, the obligation is upon the respondents to file its reply to the said notice. Indisputably, the respondent had not filed any reply to the same within the stipulated period of 6 days. Since the respondent had failed to file its response the consequences, as discussed in para 13 herein shall ensue. As refusal to reply does not deem the facts as admitted even if the respondent/defendant refused to reply under the Rule, the petitioner is still requires to prove the facts through evidence and the respondents have to bear the costs incurred by the petitioner in proving those specific facts at trial.

**17.** But, it appears that in the petition No. 648/2024, the respondents, besides apprising the court about non receipt of the notice without the queries also prays for dismissal of the notice. Though vide order dated 05/04/2024, the learned Court below had directed the petitioner/plaintiff to submit the notice along with the queries to the Counsel of the other side and fixed the case on 18/05/2024, for hearing of the petition No. 648/2024, said petition is yet to be disposed of.

**18.** However, this aspect eschewed consideration of the learned court below at the time of passing the impugned order. Though it appears that the learned trial court had practically abandoned that stage of the suit on the ground that issuance of notice to admit facts, had already consumed considerable time and as such issuance of notice to admit facts on the part of the plaintiff appears to be futile exercise, yet, it had failed to take note of the fact that the petition No. 648/2024, wherein the petitioner has also prayed for dismissal of the notice, is yet to be disposed of.

**19.** Under the given facts and circumstances this court is inclined to dispose of the present petition by directing learned trial court to dispose of the petition No.

648/2024, by passing a speaking order after affording an opportunity of being heard to both the parties and thereafter to proceed to the next step of the suit.

**20.** This court has considered the submission of Mr. Gogoi, the learned counsel for the respondent and also gone through the decision in **Rajiv Ghosh (supra)** referred by him. But, this court is unable to agree with his submission and the decision referred by him would not come into his assistance as in the said decision Hon'ble Supreme Court has dealt with Rule 6 of Order XII CPC not the Rule 4 of Order XII. It is, however, a fact that with denial of each and every statement and averment made in the plaint by the respondents in their written statement, as submitted by Mr. Gogoi, there is little scope of any advantage, as with denial of every statement made in the plaint, in the in written statement, the defendants put the plaintiff on notice that the defendants are contesting everything. Thus, the plaintiff, though has the right to issue notice and such right is technically exist, yet it would not be meaningful. To that extent this Court record concurrence to his submission.

**21.** In the result, this petition stands disposed of, with the above observation and direction.

**JUDGE**

**Comparing Assistant**