

GAHC010088042026



2026:GAU-AS:7445

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

**Case No. : WP(C)/2411/2026**

DR SHEKHAR KANTI SARKAR  
S/O SHRI SUNIL CHANDRA SARKAR, R/O SRISHTHI RESIDENCY, BLOCK 2,  
FLAT NO 2/6/D LANKESHWAR, P.O. GAUHATI UNIVERSITY, PIN 781014

VERSUS

THE STATE OF ASSAM AND 3 ORS  
THROUGH BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,  
HIGHER EDUCATION DEPTT., DISPUR, GUWAHATI 781006

2:RABINDRANATH TAGORE UNIVERSITY  
HOJAI THROUGH ITS EXECUTIVE COUNCIL HOJAI  
ASSAM  
PIN 782435

3:THE VICE CHANCELLOR

RABINDRANATH TAGORE UNIVERSITY  
HOJAI  
ASSAM  
PIN 782435

4:DR SANDIP RATNA  
REGISTRAR (IN CHARGE) RABINDRANATH TAGORE UNIVERSITY  
HOJAI  
ASSAM  
PIN 78243

**Advocate for the Petitioner** : MR. SURAJIT DUTTA, MS. I DAS

**Advocate for the Respondent** : SC, EDU, FOR CAVEATOR,MR. S K MEDHI

**BEFORE**  
**HON'BLE MRS. JUSTICE SHAMIMA JAHAN**

**26.05.2026**

Heard Mr Surajit Dutta, learned counsel, assisted by Mr I Das, learned counsel for the petitioner. Also heard Mr S K Medhi, learned Standing Counsel for Rabindra Nath Tagore University.

2. By this application filed under Article 226 of the Constitution of India, petitioner has prayed for a writ of certiorari to quash the memorandum of charge dated 24.03.2026, as well as a writ of mandamus, directing the authorities to abandon the disciplinary proceeding initiated against the petitioner. The petitioner has also prayed for setting aside the decision of respondent No. 4, i.e., Registrar In-charge of Rabindra Nath Tagore University, as contained in the letters dated 10.04.2026 and 21.04.2026, by which the authorities declined supply of documents to the petitioner.

3. The case of the petitioner is that he was initially appointed as Sub-Inspector of Police in Assam Police Radio Organization on 05.12.2001. Thereafter, he was subsequently appointed as an Assistant Registrar (Administration) on 11.07.2017, in pursuance to a selection process in Mahapurush Srimanta Sankardev Vishwa Vidyalaya. The petitioner states that while working as such, he saw an advertisement and applied for the post of Deputy Registrar in the said University and on 07.04.2021, he was appointed in the said capacity on the recommendation of the selection committee. Thereafter, the petitioner applied for the post of Deputy Registrar in the Rabindra Nath Tagore University and as per the recommendation of the Selection Committee, he was selected and appointed to the post of Deputy Registrar, by order dated 21.07.2025, issued by the Registrar of the said University and since then, i.e., from the date of joining, which was on 24.07.2025, the petitioner has been discharging his functions in the said University. The petitioner further states that with the enactment of Rabindra Nath Tagore University Act, 2017 (hereinafter, referred to as the '2017 Act'), the Hojai

College was upgraded to the level of university and was renamed as Rabindra Nath Tagore University.

4. On 29.05.2025, the University authority issued an advertisement thereby inviting applications for appointment to the post of Registrar, which had fallen vacant in July, 2025. Thereafter, a resolution was adopted by the Executive Council of the University and by order dated 02.07.2025, the petitioner was saddled with the responsibility of Registrar In-charge of the said University. However, the petitioner while working in the post of Registrar In-charge, found out that the respondent University had accepted applications of certain candidates beyond the stipulated date fixed, and he challenged the same by filing a writ petition being Writ Petition (Civil) No. 6700 of 2025. It be stated here that he too had applied for the post of Registrar to be appointed on regular basis.

5. When the aforesaid writ petition was pending disposal before this Court, the University authorities had appointed respondent No. 4, as In-charge Registrar, by relieving the petitioner from the responsibility of Registrar In-charge, which was again put to challenge by the petitioner by filing another writ petition, and that both the writ petitions were, however, withdrawn on 04.02.2026.

6. Further, during the pendency of the said writ petitions, it is stated that respondent No. 4 issued a show cause notice to the petitioner on 20.01.2026, and called for a reply from the petitioner. In the said show cause notice, the allegations raised against the petitioner was that his qualifications are invalid, the petitioner took away his personal file and did not return it, the petitioner took benefit of pay protection illegally, petitioner's claim for his experience was illegitimate and other such allegations. The petitioner had submitted his reply on 30.01.2026, denying all the allegations and that, thereafter, on contemplation of a disciplinary proceeding and in purported exercise of power under Rule 6 of the Assam Civil Service (Discipline and Appeal) Rules, 1964 (hereinafter, referred to as the '1964 Rules'), respondent No. 4 issued a suspension dated 26.02.2026 and made it effective from the said date.

7. Thereafter, on 24.03.2026, the respondent No. 4 had issued a memorandum of charges reiterating the allegations mentioned in the show-cause notice. The petitioner, after receiving the memo of charges by his letter dated 08.04.2026, asked for certain documents to make an effective reply to the said charges, which was however, not acceded to by the respondent No. 4, who rather had issued a letter giving 15 (fifteen) days' time to the petitioner to submit his reply. The petitioner, thereafter, on his own, went for inspection of documents, but he was allowed to inspect only 4 documents out of 29. Being allegedly aggrieved, the petitioner has filed the present petition.

8. The learned counsel for the petitioner, Mr S Dutta, mainly raised the ground that the memorandum of charges issued by respondent No. 4, on 24.03.2026, was without any authority to issue such document. He relied on the Act of 2017, and placed that the appointing authority of the petitioner is the Executive Council, constituted under the Act. He placed Section 27 of the Act, which provides in Sub-Section 6 that the Executive Council shall appoint the Officers (other than the Chancellor and the Vice-Chancellor), teachers, officer and technical staff and other employees of the University. The Executive Council is further given the power and duty to define the duties and conditions of service of the aforesaid employees, as well as to fill up the temporary vacancies under the said Act.

9. He further submitted that in the Act, the enabling power to frame regulations is given in Section 49 of the said Act, which provides that each of the authorities of the University may make regulations consistent with the Act of 2017, statutes and the ordinances for the purpose of carrying out the duties under the Act. He, however, submits that till date, no regulations are being framed to carry out the duties and the powers of the authority concerned under the said Act, or the statutes or the ordinances as the case may be. He accordingly, submits that the Registrar In-Charge has no power under the Act and there being no regulation, to issue the memorandum of charges to the petitioner, as has been done in the instant case. He further submits that, at best, the

Executive Council could have issued the same.

10. On the other hand, Mr S K Medhi, learned counsel for the University submits that the Registrar, i.e., respondent No. 4 had issued the memorandum of charges on being authorized by the Executive Council in its meeting held on 6<sup>th</sup> of January, 2026. He placed Agenda-7 of the said meeting, wherein the issues related to validity of appointment of the petitioner was considered and it was resolved that the house expressed serious concern about the misconduct and forged activities of the petitioner functioning as Deputy Registrar of the said University. It was stated in the resolution that the LLM Degree obtained by the petitioner was invalid, being obtained from a University through distance learning. It was also resolved that the experience certificate produced by the petitioner based on which, he was appointed to the post of Deputy Registrar in the University was also fake, and as such, it was unanimously resolved to take appropriate legal steps against the petitioner by issuing show cause notice and to initiate departmental proceedings, and further, by the said resolution, the Vice-Chancellor was authorized to take all necessary steps towards the same as the Chairman of the Executive Council. He then placed the Agenda No. 3, taken up by the Executive Council in its meeting held on 25.02.2026, by which the house passed the resolution that the petitioner would be put under suspension in contemplation of a departmental proceeding strictly in accordance with provisions of 1964 Rules, and by the said resolution, the Registrar In-charge was authorized to issue all communications in consultation with the Vice-Chancellor, including issuance of the suspension order, memorandum of charges etc.

11. He, as such, submits that the memorandum of charges were issued to the petitioner, not by respondent No. 4 himself, but on the authority given by the Executive Council, who was admittedly the appointing authority of the petitioner. He also placed the subsequent authorization letter issued by the Vice-Chancellor of the said University on 26.02.2026, to respondent No. 4, stating that the memorandum of charges against the

petitioner has been approved on 18<sup>th</sup> of March, 2026, and respondent No.4 was further authorized to issue the said memorandum of charges to the petitioner. The learned counsel further placed Section 16 of the 2017 Act, wherein by Sub-Section (ii) to Section 16, it is provided that the Registrar is empowered to sign and verify appointments, contracts and agreements on behalf of the University. He relied on a judgment rendered by this Court in *Sri Vinay Kumar -vs- Union of India & Others*; [WP(C) No. 2560 of 2026]; disposed of on 18.05.2026, by which, this Court had held that issuance of memorandum of charge does not give rise to any cause of action to the petitioner to file writ petition under Article 226 of the Constitution of India, as no rights of the parties have been decided by the said memorandum of charge.

12. In reply to the said argument, raised by Mr Medhi, Mr Dutta, learned counsel for the petitioner stated that as far as the merit of the petitioner is concerned, in his appointment to the post of Assistant Registrar, his degree of LLM was a recognized degree, as has been held by the Karnataka High Court, and that the petitioner had other Master Degrees, apart from LLM. He further submitted that under the Act, there is no power of delegation which can be exercised by the Executive Council and that he placed Section 54 of the Act, which provided that the Vice-Chancellor and the Registrar with the previous approval of the Vice-Chancellor can delegate its powers and duties conferred upon by this Act. He, therefore, reiterated his submission that the Executive Council, being the appointing authority and the same having no power of delegation, should have issued the memorandum of charges in place of the Registrar.

13. Since the challenge in this petition was to the memorandum of charges issued by the In-charge Registrar of the University, the said memorandum of charges be looked into and examined. It be stated that in the memorandum of charges dated 20.03.2026, the language used is that the Registrar In-charge proposes to hold a departmental proceeding against the petitioner, and that the substance of the imputations of misconduct or misbehaviour for which an enquiry is proposed to be held is set out in article of charges.

In the said memorandum, the article of charges were appended along with a list of witnesses, as well as the list of documents, by which the charges were proposed to be proved. It was further stipulated in the memorandum that petitioner should submit his reply within 15 days on receipt of the memorandum. The petitioner was also further informed that there will be an enquiry and the petitioner should admit or deny the charge and further that, if the petitioner does not submit his written statement and if he does not appear in person, the enquiry will be *ex-parte*.

14. Although the language in the said memorandum is to the effect that it was respondent No. 4, who proposes to hold a departmental proceeding, however, it should not be lost sight of the fact that the Executive Council of the said University by its meeting held on 26<sup>th</sup> of January, 2026, had resolved to take necessary action against the petitioner, which included issuance of notice, show cause as well as initiating departmental proceeding. By the said resolution, the Executive Council authorized the Vice-Chancellor to take all appropriate steps towards the same, and by a subsequent resolution taken on 25<sup>th</sup> of February, 2026, the house had unanimously resolved that In-charge Registrar is authorized to issue all communications in consultation with the Vice Chancellor, including issuance of memorandum of charges. As such, it is seen that the decision to issue the memorandum of charges was that of the Executive Council of the University. However, the exercise was done by the In-charge Registrar of the University. In view of the same, it cannot, therefore, be said that it was the in-charge Registrar, who had issued the memorandum of charges. It is clear from the resolution adopted by the Executive Council that the in-charge Registrar acted in pursuant to the decisions and directions of the Executive Council. Although under Section 54 of the Act, the Vice Chancellor has the power to delegate its powers and functions to the Registrar, but in the instant case, what is seen that the In-charge Registrar, on the approval being given by the Vice Chancellor has issued the memorandum of charges. It is, as such, noticed that it is not in dispute that the Executive Council is the appointing authority and it is them, who

had held the meeting and resolved to take necessary action against the petitioner, and in pursuance to their decision, the exercise was undertaken. To hold that it should be the Executive Council, who should have issued the memorandum of charges would be too technical in the facts of the instant case. It is also noticed that the Vice-Chancellor is the Chairman of the said Executive Council and he is empowered to delegate its powers to the Registrar, under Section 54 of the 2017 Act. Further, it is also seen that this Hon'ble Court, had rendered its decision in *Vinay Kumar's case (supra)* that writ petition under 226 of the Constitution of India, will not lie against the memorandum of charge. While rendering the said decision, this Court had relied on a decision of the Supreme Court, passed in *Union of India And Other -vs Kunisetty Satyanarayana*; reported in (2006) 12 SCC 28. In view of the findings mentioned hereinabove, this petition is as such, dismissed and disposed of.

**JUDGE**

**Comparing Assistant**