

GAHC010088572026



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

Case No. : WP(C)/2402/2026

JAYANTA KUMAR SARMA
S/O- LATE DEBENDRANATH SARMA ,
R/O- C/4 GIRI NIWAS, KHARGHULI, P.O- UZAN BAZAR, P.S- LATASHIL,
DIST- KAMRUP (M), PIN-781004, ASSAM

VERSUS

KRISHNA KANTA HANDIQUE OPEN UNIVERSITY
REP. BY THE REGISTRAR, RESHAM NAGAR, KHANAPARA, GUWAHATI-
781022, KAMRUP(M), ASSAM

2:THE VICE CHANCELLOR
OF KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY
RESHAM NAGAR
KHANAPARA
GUWAHATI- 781022
KAMRUP(M)
ASSAM.

3:BOARD OF MANAGEMENT (DISCIPLINARY AUTHORITY)
KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY RESHAM NAGAR
KHANAPARA
GUWAHATI- 781022
KAMRUP(M)
ASSAM.

4:REGISTRAR I/C
KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY RESHAM NAGAR
KHANAPARA
GUWAHATI- 781022
KAMRUP(M)
ASSAM.

5:THE INQUIRY COMMITTEE
REP. BY THE CHAIRPERSON
CONSTITUTED UNDER RESOLUTION OF THE 84TH BOM OF THE
KRISHNA KANTA HANDIQUE STATE OPEN UNIVERSITY HELD ON
14.11.2025

CHAIRPERSONS OFFICE ADDRESS-C-43
TF
SOUTH EXTENSION
PART II
NEW DELHI-11004

Advocate for the Petitioner : MR. M SARMA, MR. M K CHOUDHURY

Advocate for the Respondent : SC, KKHSOU, MR. R A SHEIKH,MR. P J PHUKAN,MR. K N CHOUDHURY

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 08.05.2026

Heard Mr. M K Choudhury, Learned Senior Counsel assisted by Mr. M Sarma, Learned Counsel for the Petitioner. Also heard Mr. K N Choudhury, Learned Senior Counsel assisted by Mr. T Kashyap, Learned Counsel appearing for KKHSOU authorities.

The grievance of the petitioner, in the present writ petition, is, with regard to the constitution of a Committee, for consideration of the qualifications of the petitioner for holding the post of Professor, School of Mass Communication, in the respondent No. 1/University. The petitioner is also aggrieved by resolution, adopted by the Board of Management of the respondent No. 1/University, in its 85th meeting, to take recourse to the

provisions of Rule 94 (III) of the Service Rules of 2019, for the purpose of determining the eligibility of the petitioner, to hold the said post in the University.

The Learned Counsel for the Petitioner has submitted that the petitioner, being a confirmed employee in the University, even if it is to be considered, as to whether the petitioner had the requisite eligibility criteria, to hold the charge of the post of Professor, School of Mass Communication, in the respondent No. 1/University, a proceeding under the Rule 90 of the Rules of 2019, was mandatorily required to be so instituted. In support of his such submissions, the Learned Senior Counsel for the Petitioner has relied upon the observations made by the Hon'ble Supreme Court in the case of SLP(C) No. 53620/2024, vide order dated 21.11.2025, wherein, the Hon'ble Supreme Court had directed that the disciplinary proceedings, against the petitioner, be completed, in accordance with law, being UGC Resolutions, 2018 and Service Rules, 2019. Accordingly, it is submitted by the Learned Senior Counsel for the Petitioner that the recourse, taken to the provisions of Rule 94 (III), by the Board of Management of the respondent No. 1/University, is clearly not permissible.

Per contra, Mr. K N Choudhury, Learned Senior Counsel appearing for KKHSOU, Assam, by placing before this Court, the background, leading to the proceedings, presently instituted against the petitioner, has submitted that what is being examined by the University, is not a misconduct committed by the petitioner, but the question, as to whether, the petitioner,

possessed the requisite eligibility criterias, for being recruited as Professor in the University. It is submitted that the said issue, unfortunately, was not examined in its proper perspective, while the petitioner was initially appointed, however, the same, coming to the notice of the respondent authorities, the Board of Management of the respondent No. 1/University, had proceed to consider the said issue. It is submitted that the provisions of Rule 94(III) stands attracted to the case on hand and in terms, thereof, the Committee, now constituted, in pursuance to the directions passed by this Court, vide the judgment and order dated 16.10.2025 passed in WP(C) No. 4544/2024, would be required to examine, as to whether, the petitioner fulfilled the requisite eligibility criterias for being appointed as Professor. It is submitted that the provisions of Rule 94(III) does not mandate extension of a hearing to the delinquent in the matter before arriving at a decision, in the matter, but considering the directions passed by the Division Bench of this Court, in proceedings, involving the petitioner and the University, as well as by the Coordinate Bench, vide the said judgment and order dated 16.10.2025, the Committee as constituted in the matter, was directed to afford all reasonable opportunities of hearing to the petitioner in the matter.

On a consideration of the rival submissions made by the learned counsel for the parties, this Court finds that the issue, arising for consideration by this Court, is as to whether a departmental proceeding, under Rule 90 of the Rules of 2019, is mandated to be instituted against the petitioner and, therein, by affording to him due opportunity of hearing, a conclusion is to

be arrived at, as to whether, the petitioner had the requisite qualifications for being appointed against the post, in question. This Court also notices that the petitioner, after his initial appointment on probation, was confirmed in his services Accordingly, a question would also arise as to whether a regular employee can be removed from his services without taking into recourse to the provisions of Rule 90 of the Rules of 2019. A decision on the said issue would also require this Court to consider the resolutions adopted by the Board of Management of the respondent No. 1/University, to proceed in the matter against the petitioner by taking recourse to the provisions of Rule 93 (III) of the Rules of 2019. The said consideration would be permissible to be so made after the respondent No.1/University has brought on record its stand, by way of filing an affidavit.

Mr. T Kashyap, Learned Counsel assisting by Mr. K N Choudhury, Learned Senior Counsel appearing for KKHSOU, Assam, submits that he be granted 4(Four) weeks time to file an affidavit in the matter on behalf of the respondents.

Balancing the equities in the matter, this Court permits the respondent No.1/University to proceed against the petitioner in the matter, through the Committee, as constituted by it. The petitioner is also directed to appear before the Committee and to place before it, his stand in the matter including objections, with regard to the procedure adopted for examination of the issue involved, after he was confirmed in his service, as well as with regard to the issue as to whether, he was qualified to hold the charge of the

post of Professor in the respondent No. 1/University. The Committee shall proceed with the matter and arrive at its conclusions, which shall be kept in a sealed cover. The conclusions of the Committee shall not be given effect to, without leave of this Court.

The university authorities shall invariably bring on record their stand in the matter, by way of filing an affidavit, by the next date of listing.

The affidavit be filed on or before 01.06.2026.

The petitioner is at liberty to file a rejoinder to the affidavit filed by the respondents, if so advised.

Accordingly, Registry to list this matter again on 10.06.2026 for Motion.

JUDGE

Comparing Assistant