

GAHC010035032024



2024:GAU-AS:9829

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

Case No. : WP(C)/904/2024

RASHIDUL ISLAM MANDAL

SON OF IDRISH ALI MONDAL, RESIDENT OF VILLAGE- KATDANGA, PO-
MOHURIR CHAR, PS- SOUTH SALMAR, DISTRICT- DHUBRI, ASSAM, PIN-
783128

VERSUS

THE STATE OF ASSAM AND 5 ORS

REPRESENTED BY THE PRINCIPAL SECRETARY, HEALTH AND FAMILY
WELFARE DEPARTMENT TO THE GOVT. OF ASSAM, DISPUR, GUWAHATI-
781006

2:THE DIRECTOR OF MEDICAL EDUCATION

ASSAM

KHANAPARA

GUWAHATI-22

3:THE PRINCIPAL CUM CHIEF SUPERINTENDENT

GUWAHATI MEDICAL COLLEGE AND HOSPITAL

BHANGAGARH

GUWAHATI- 781032

4:Srimanta Sankardeva University of Health Sciences

REPRESENTED BY ACADEMIC REGISTRAR

2ND FLOOR

GAUHATI MEDICAL COLLEGE BUILDING

GAUHATI MEDICAL COLLEGE

HILL TOP ROAD

NARAKASUR HILLTOP

BHANGAGARH

GUWAHATI

ASSAM- 781032

5:THE ACADEMIC REGISTRAR

SRIMANTA SANKARDEVA UNIVERSITY OF HEALTH SCIENCES
2ND FLOOR
GAUHATI MEDICAL COLLEGE BUILDING
GAUHATI MEDICAL COLLEGE
HILL TOP ROAD
NARAKASUR HILLTOP
BHANGAGARH
GUWAHATI
ASSAM- 781032

6:NATIONAL MEDICAL COMMISSION
REPRESENTED BY ITS CHAIRMAN
POCKET-14
SECTOR-8
DWARKA PHASE-1
NEW DELHI- 110077
UNDERGRADUATE MEDICAL EDUCATION BOARD
NATIONAL MEDICAL COMMISSION
POCKET-14
SECTOR-8
DWARKA PHASE-1
NEW DELHI- 11007

Advocate for the Petitioner : MR. S K DAS, MR D BARMAN,MR R KARIM

Advocate for the Respondent : SC, N M C, SC, SSUHS,SC, HEALTH

Linked Case : WP(C)/955/2024

TARIQ HUSSAIN
S/O- LATE MIR HUSSAIN
R/O- VILLAGE MILANPUR
WARD NO-3
P.O AND P.S- MORIGAON
DIST- MORIGAON
ASSAM
PIN-782105

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM

HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI-781006

2:THE DIRECTOR OF MEDICAL EDUCATION
ASSAM
KHANAPARA
GUWAHATI 22

3:THE PRINCIPAL CUM CHIEF SUPERINTENDENT
GUWAHATI MEDICAL COLLEGE AND HOSPITAL
BHANGAGARH
GUWAHATI 781032

4:SRIMANTA SANKARDEVA UNIVERSITY
OF HEALTH SCIENCES

REPRESENTED BY ACADEMIC REGISTRAR
2ND FLOOR
GAUHATI MEDICAL COLLEGE BUILDING
GAUHATI MEDICAL COLLEGE
HILL TOP ROAD
NARAKASUR HILLTOP BHANGAGAR
GUWAHATI
ASSAM 781032

5:ACADEMIC REGISTRAR
SRIMANTA SANKARDEVA UNIVERSITY OF HEALTH SCIENCES
2ND FLOOR
GAUHATI MEDICAL COLLEGE BUILDING
GAUHATI MEDICAL COLLEGE
HILL TOP ROAD
NARAKASUR HILLTOP BHANGAGAR
GUWAHATI
ASSAM 781032

6:NATIONAL MEDICAL COMMISSION
REPRESENTED BY ITS CHAIRMAN
POCKET 14
SECTOR 8
DWARKA PHASE I
NEW DELHI 110077
UNDERGRADUATE MEDICAL EDUCATION BOARD
NATIONAL MEDICAL COMMISSION
POCKET 14
SECTOR 8
DWARKA PHASE I
NEW DELHI 110077

Advocate for the petitioners : Mr. R. Karim.
Advocate for the respondents : Mr. B. Gogoi, for respondent Nos. 1-5;
Mr. D.K. Baidya, for respondent No. 6.
Date of hearing and judgment : **30.09.2024**

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
JUDGMENT & ORDER (ORAL)**

Heard Mr. R. Karim, learned counsel for the petitioners and Mr. B. Gogoi, learned Standing counsel for the respondent Nos. 1 to 5. Also heard Mr. D.K. Baidya, learned Standing counsel for the respondent No. 6.

- 2.** As the issue involved in WP(C) No. 904/2024 and WP(C) No. 955/2024, are same and as the respondents in both the petitions are same, and as agreed by learned Advocates of both the parties, it is proposed to dispose of these two petitions by this common judgment and order.
- 3.** In these two writ petitions, under Article 226 of the Constitution of India, the petitioners, namely, Rashidul Islam Mandal in WP(C) No. 904/2024 and Tariq Hussain in WP(C) No. 955/2024, have put challenge the correctness or otherwise of the notice dated 12.02.2024, issued by the respondent No. 3, the Principal-cum-Chief Superintendent, Gauhati Medical College and Hospital, Bhangagarh, Guwahati, debarring the petitioners from appearing in further MBBS Examination to be held on March, 2024.
- 4.** The impugned notice dated 12.02.2024, is reproduced herein below for ready reference:

**"GOVERNMENT OF ASSAM
OFFICE OF THE PRINCIPAL:: GAUHATI MEDICAL COLLEGE
GUWAHATI-32.
NOTICE
12/02/2024**

As per the Medical Council of India, New Delhi Regulation on Graduate Medical Education, 2012 of Page No. 10 (Clause-7.8), A student shall not be allowed to graduate later than 9 years of joining first MBBS course.

As such, as per the discussion in the meeting with HODs of Medicine, Surgery, Obst. & Gyne and Paediatric, Gauhati Medical College, Guwahati held on 12/02/2024 the following students who could not completed their MBBS course within 9(nine) years from their date of joining in MBBS course at Gauhati Medical College are not allowed to appear in further MBBS Examination to be held on March, 2024.

S1. No	Name of Students	Date of Admission
01	Rashidul Islam Mondal	29/07/2013
02	Tariq Hussain	03/07/2014

**Prof. (Dr.) A. C. Baishya
Principal,
Gauhati Medical College,
Guwahati-32.**

**Dated Guwahati, the 12th February, 2024
Memo No. MC/889/2017/P1-1/242-249"**

5. The background facts, leading to filing of the present petitions, are briefly stated as under:

“The petitioners in these two petitions are pursuing MBBS course in the Gauhati Medical College and Hospital in the final year. The petitioner, namely, Rashidul Islam Mandal in WP(C) No. 904/2024, took admission on

29.07.2013, bearing Roll No. GAU 13365 and the petitioner, namely, Tariq Hussain in WP(C) No. 955/2024, took admission on 03.07.2014, bearing Roll No. GAU 09487, but, they could not complete their MBBS course since then. Thereafter on 12.02.2024, the respondent No. 3 had issued the impugned notice and thereby, debarred them from appearing in further MBBS Examination, to be held in March, 2024. In the said notice, the respondent No. 3 had made reference to the Medical Council of India, New Delhi, Regulation on Graduate Medical Education, 2012 of page No. 10 (Clause 7.8) and as per the said Regulation, a student shall not be allowed to graduate later than 9 years of joining first MBBS course.

It is the pleaded case of the petitioners that there is no Medical Council of India, New Delhi, Regulation on Graduate Medical Education, 2012 and the same ought to have been the Medical Council of India Regulations on Graduate Medical Education, 1997, which was amended on 04.11.2019, and the said Regulation governs with respect to the batches of students admitted in MBBS course until the academic year 2018-19. Now, the said amended Regulation provides that a student shall not be allowed to graduate later than 9 years of joining his MBBS course, and since both the petitioners have failed to graduate after completion of 9 years, they are not entitled to appear in further examination to be held in March, 2024."

- 6.** Being aggrieved, the petitioners have approached this Court by filing the present two petitions. It is to be noted her that both the petitioners were allowed to appear in the Examination held on March, 2024, vide interim order of this Court dated 21.02.2024.
- 7.** Mr. Karim, learned counsel for the petitioners submits that the petitioners,

Rashidul Islam Mandal took admission on 29.07.2013, and Tariq Hussain took admission on 03.07.2014 and though they could not graduate within 9 years from the date of their joining first MBBS course at Gauhati Medical College and Hospital, yet before coming into force of the Medical Council of India Regulations on Graduate Medical Education, 1997 and amendment thereto on 04.11.2019, there is no such rule which debars students from appearing in examination after completion of 9 years. Mr. Karim also submits that though in the impugned notice dated 12.02.2024, the respondent No. 3 had referred to the Medical Council of India, New Delhi Regulation on Graduate Medical Education, 2012, yet there is no such rule and at the relevant time, Medical Council of India Regulations on Graduate Medical Education, 1997 was holding the field, and in the said Regulation, there is no provision of debarring student, who could not complete MBBS course within 9 years of taking admission and as such, the impugned notice dated 12.02.2024, debarring the petitioners from appearing in further MBBS Examination to be held in March, 2024, is arbitrary and illegal and as such, liable to be set aside and quashed and therefore, Mr. Karim has contended to allow the petitions. Mr. Karim has also referred to some decisions of a Co-ordinate Bench of this Court in **WP(C) No. 2447/2024 (Anupam Borah vs. State of Assam and Ors.)** and **WP(C) No. 849/2024 (Talukdar Hussain Md Arshad vs. State of Assam and Ors.)**, wherein the petitioners were permitted to appear in the MBBS Examination.

8. Per contra, Mr. Baidya, learned Standing counsel for the respondent No. 6, fairly submits that the new Regulation came into force w.e.f. academic year 2018-19, but, prior to that, there was no such Regulation prescribing time limit for completion of MBBS course and that the petitioners were governed by the earlier Regulation of 1997, where there is no provision for debarring students, in

appearing MBBS examination, who could not complete the course within 9 years.

9. On the other hand, Mr. Gogoi, learned Standing counsel for the respondent Nos. 1 to 5 submits that the stand of the said respondents is same with the stand taken by the respondent No. 6. He fairly submits that there is no upper cap of 10 years for completion of MBBS course in the Regulation of 1997, and that before the amendment of the Regulation, 2018-19, though there was some amendment, the same was not notified in the Gazette and consequently, has no legal force.

10. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the impugned notice, dated 12.02.2024 and the relevant Regulation i.e. the Medical Council of India Regulations on Graduate Medical Education, 1997.

11. Admittedly, there is no Regulation on graduate medical education of the year 2012, though reference to the said regulation was made in the impugned notice dated 12.02.2024. Admittedly, also the petitioners are governed by the Regulation of 1997, where no upper cap of 9 years was prescribed. That being so, the impugned notice dated 12.02.2024, debarring the petitioners from appearing in further MBBS Examination, to be held in March, 2024, is arbitrary and illegal being issued in contravention to the Medical Council of India Regulations on Graduate Medical Education, 1997, which was prescribed in the Regulation amended on 04.11.2019. The petitioners took admission in the year 2013 and 2014, respectively. That being so, by no stretch of imagination, the amended Regulation, 2018-19 can be applied in case of the petitioners.

12. Accordingly, this Court is inclined to allow these petitions. The impugned notice dated 12.02.2024, stands set aside and quashed. The respondent No. 3 is directed to allow the petitioners to appear in the further MBBS Examination, scheduled to be held in March, 2024 and thereafter.

13. In terms of above, the writ petitions stand disposed of.

JUDGE

Comparing Assistant