

## HIGH COURT OF TRIPURA AGARTALA

**WP(C) No.422 of 2020**

**Sri Bhaskar Sarkar,**

son of late Pramode Ranjan Sarkar, resident of Banamalipur, L.N. Bari road,  
P.O. Agartala-799001, P.S. East Agartala, District- West Tripura

.....Petitioner

**-VERSUS-**

**1. The State of Tripura,**

represented by the Commissioner & Secretary, Department of Higher Education, Government of Tripura, having its office at New Secretariat Complex, Gurkhabasti, Agartala, P.O. Kunjaban, P.S. New Capital Complex, Sub-Division- Sadar, District- West Tripura

**2. The Commissioner and Secretary,**

Department of Higher Education, Government of Tripura, having its office at New Secretariat Complex, Gurkhabasti, Agartala, P.O. Kunjaban, P.S. New Capital Complex, Sub-Division- Sadar, District- West Tripura

**3. The Commissioner and Secretary,**

Home Department, Government of Tripura, having its office at New Secretariat Complex, Gurkhabasti, Agartala, P.O. Kunjaban, P.S. New Capital Complex, Sub-Division- Sadar, District- West Tripura

**4. The Director General of Police,**

Government of Tripura, Agartala, District- West Tripura

**5. The Director,**

Department of Higher Education, Government of Tripura, Agartala, District- West Tripura

.....Respondents

For Petitioner (s )	:	Mr. Somik Deb, Sr. Advocate Mr. Abir Baran, Advocate
For Respondent (s)	:	Mr. D. Sarma, Additional GA
Date of hearing & delivery of judgment & order	:	<b>19.07.2021</b>
Whether fit for reporting	:	<b>Yes / No</b>

**HON'BLE MR. JUSTICE ARINDAM LODH**  
**JUDGMENT & ORDER (ORAL)**

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. Abir Baran, learned counsel for the petitioner. Also heard Mr. D. Sarma, learned Additional GA appearing for the State-respondents.

**2.** This is the third round of litigation, the petitioner has approached this court seeking the reliefs that his Graduation pass certificate which he obtained from Madurai Kamraj University is required to be accepted by the State-respondents. From the notification dated 25.11.2014, it is revealed that the State-government by way of a policy decision has fixed a cut-off date to accept such pass certificate from the candidates who would submit such certificate within 10.07.2013.

**3.** The case of the petitioner is that, though he appeared in the examination before 10.07.2013, but, his result was declared after 10.07.2013 and for that reason, he could not furnish his degree certificate before the cut-off date i.e. 10.07.2013. However, the petitioner had submitted his graduation certificate to the State-respondents, but, it was not accepted and the State-respondents had rejected his prayer for accepting his graduation certificate as the petitioner had failed to produce such certificate before 10.07.2013.

**4.** Being aggrieved of such rejection, the petitioner approached this court by way of filing writ petition. In that writ petition, a learned Single Judge of this court disposed of the writ petition with a direction upon the respondents to consider his representation by accepting his graduation certificate. The State-respondents after receipt of the said representation had considered the same, but, rejected the prayer. The petitioner again filed another writ petition. While disposing of the said writ petition, bearing no. WP(C) 1398 of 2017, this court had observed thus:

“[6] Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents however has completely disagreed with what Mr. Datta, learned counsel appearing for the petitioner has contended and submitted that since the petitioner did not obtain the degree before 10.07.2013, his case cannot be considered and the petitioner has been accordingly communicated. This court is of the view that the decision of this court in Santunu Saha & Ors. vs. State of Tripura & Ors. (supra) has unambiguously observed that on human consideration, it appears to this Court that the State shall reconsider this aspect of the matter with some latitude, whether the petitioners or the similarly circumstanced persons, who were studying under the respondent No.5 from before the cut-off date, can be recognized for bringing them under the same arrangement as provided in the Memorandum dated 10.07.2013. It is expected that the competent authorities in the State Government shall take their decision as expeditiously as possible but by any rate not later than 31st October, 2014. The respondents No.1 to 4 shall communicate that decision to the petitioners immediately thereafter.

[7] There remains ambiguity in the notification dated 25.11.2014 when it stipulates that the students who had enrolled in such unauthorized off campus study centres of various outside State universities operating in Tripura before the cut-off date and secured degrees before issuance of memo, dated 10.07.2013 may be allowed as valid degrees. The cut-off date initially was 02.04.2011 and later on, it has been extended till 10.07.2013. The petitioner's result was not published before 10.07.2013. As such, the respondents are directed to reconsider the matter and take a decision whether the said degree as obtained by the petitioner can be accepted as the petitioner had appeared in the examination before the cut-off date. Only the result was published after the cut-off date. Since the notification dated 25.11.2014 does not squarely cover the controversy, this matter is remitted to the Principal Secretary, Education (Higher) Department, Government of Tripura for reconsidering the issue so far the petitioner's degree is concerned. For this purpose, the petitioner shall file a representation to the Principal Secretary, Education (Higher) Department, Government of Tripura with a copy of this order so that his case can be considered by the Principal Secretary, Education (Higher) Department, Government of Tripura. If the circumstances so require, the Principal Secretary may refer the matter to the Council of Ministers for further consideration by them in terms of the said judgment. Such representation shall be filed by the petitioner within a fortnight from the date when he would receive the copy of this order.

With this observation and direction, this petition stands disposed of.

There shall be no order as to costs”.

**5.** In pursuance of the direction passed by this court in WP(C) 1398 of 2017, the petitioner submitted a fresh representation, but, the same was rejected vide memorandum dated 31.01.2020 issued by the Director of Higher Education, Government of Tripura. The said memorandum dated 31.01.2020 reads as under:-

**“Government of Tripura  
Directorate of Higher Education  
Legal Affairs Unit**

No. F.10(596)LA/DHE/2019/1265-1267, Dated, Agartala, the 31.01.2020

**M E M O**

Whereas, the representation dated 04.09.2019 made by Sri Bhaskar Sarkar, S/O Lt. Pramode Ranjan Sarkar, Banamalipur, L.N. Bari Road in connection with implementation of Judgment order dated 10.10.2018 passed in W.P.(C) No. 1398/2017 has been examined by the Department. It is to be mentioned here that in

2002 High Court of Chattisgarh issued an order, in which it quashed the State Government notification Private University in Prof. Yashpal and another vs. State of Chattisgarh. Decision of the Hon'ble High Court was upheld by the Hon'ble Supreme Court in 12/02/2005. Accordingly in 17<sup>th</sup> April, 2009, UGC directed the State Government "To stop all State/Private Universities from operation beyond tutorial jurisdiction of the State". In compliance to the direction, State Government issued notification in 2011 and was widely published in local daily newspapers also where direction was given to close down all unauthorized centre with effect from 26<sup>th</sup> March, 2011. Accordingly the judgment given by Hon'ble High Court of Tripura vide case No. 403 of 2018 as humanitarian ground the cutoff date was extended 10/07/2013.

AND

Whereas, it is clear that State Government have already given enough opportunity and further extension will be against the spirit of the judgment given by Hon'ble Supreme Court and also direction of UGC.

AND

Now, therefore in view of the above context the representation given by Sri Sarkar has no merit for consideration by the Higher Education Department at this stage".

**6.** A bare reading of this memorandum reveals that as per direction of this court to send the matter to the Council of Ministers has not been considered by the State-respondents. As such, the petitioner by filing the present writ petition has challenged the said memorandum dated 31.01.2020.

**7.** Mr. Somik Deb, learned senior counsel assisted by Mr. Abir Baran, learned counsel appearing for the petitioner has submitted that the State-respondents have failed to give due respect to the order of this court. He has further submitted that the respondents have misconstrued the spirit of the order passed by this court. Mr. Deb, has further submitted that the court has indicated for humanitarian consideration of the case of the petitioner for the reason that the petitioner was not at fault since the publication of result was entirely within the domain of the University and, he had no role to play.

**8.** According to me, it was for this reason, the Court time and again asked the respondents to consider the case of the petitioner by way of accepting the Degree certificate which he obtained from Madurai Kamraj University. Another important fact comes to light in the memorandum dated 31.01.2020 that on 17.04.2009 the UGC had directed the State-respondents "*to stop all State/Private Universities from operation beyond*

*tutorial (sic. territorial) jurisdiction of the State*”. Despite this direction of the UGC, the State-respondents have decided to extend the date of acceptance of such Degree certificate till 10.07.2013. Further, the memo dated 31.01.2020 does not reflect that the matter was referred to the Council of Ministers, as directed by this court. According to me, the said memorandum dated 31.01.2020 is not *in tandem* with the direction of the court’s order.

**9.** For this reason, I direct the State-respondents to consider the grievance of the petitioner afresh and if the Principal Secretary fails to reach at a favourable decision, which will address the grievance of the petitioner, in that case, the Principal Secretary, Govt. of Tripura shall refer the matter of the petitioner to the Council of Ministers. The petitioner shall file a fresh representation to the Principal Secretary, Education (Higher) Department, Government of Tripura with a copy of this order within a period of two weeks from today and the Principal Secretary, Education (Higher) Department shall dispose of such representation within the next 3 (three) weeks, which will be counted from the date of receipt of such representation. I reiterate that in case the Principal Secretary is unable to grant the reliefs as sought for by the petitioner in his writ petitions, then, he will refer the matter to the Council of Ministers for final decision within 7(seven) days from the date of disposal of the representation by him, and such reference shall accompany the copies of all the judgments and orders passed by this court.

**10.** With the aforesaid observation and directions, the instant writ petition stands disposed.

Pending application(s), if any, also stands disposed.

**JUDGE**

Saikat