

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP (C) No.355/2017

Date of Order: 29.06.2018

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Union of India & ors	Vs.	Dr. Md. Yunus
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**Coram:**

**Hon'ble Mr. Justice Mohammad Yaqoob Mir, Chief Justice**  
**Hon'ble Mr. Justice S.R. Sen, Judge**

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**Appearance:**

For the Petitioner/Appellant(s) : Mr. K Paul, Adv

For the Respondent(s) : Ms. SG Momin, Adv

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i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

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**Per Mohammad Yaqoob Mir, C.J.,**

1) The respondent has filed O.A. (Original Application) No.43/286/2017 titled "Dr. Mohd. Yunus v. NEIGRIHMS" before the Central Administrative Tribunal, Guwahati Bench, Guwahati with a prayer that the petitioners herein to accept the technical resignation of the respondent herein which he had submitted on 26.07.2017, with a further prayer to relieve him from the post of Additional Professor of Anesthesiology, North Eastern Indira Gandhi Regional Institute of Health and Medical Science, Shillong forthwith, so as to enable him to join as Professor of Trauma & Emergency at AIIMS, Bhopal.

2) The Tribunal vide its order dated 27.11.2017 had directed the petitioners (respondents therein) to file reply and also to file Vigilance Clearance, MCI inspection report, magisterial committee report of the State Government of Meghalaya, minutes of the meeting of senior officers and the reports of the enquiry officer. The Director of NEIGRIHMS, Shillong was also directed to remain

present to assist the Tribunal. Dissatisfied with the said order, instant petition has been filed.

3) While considering the petition, vide interim order dated 07.12.2017, it has been observed that the petitioners (Union of India & others) are aggrieved particularly of the direction regarding filing of Vigilance Clearance, which, according to the respondents (petitioners herein), could not be filed at that stage because the inquiry was under contemplation. Noticing the peculiar features of the case, the petition was admitted and operation of the order dated 27.11.2017 was directed to remain stayed.

4) The inquiry has been finalized and punishment has been imposed. The petitioners have filed an affidavit wherein, it is made clear that the President Governing Council, NEIGRIHMS, Shillong, the Disciplinary Authority vide Order No.NEIGRIHMS/LC/36/2017 dated 31.05.2018 has taken the final decision in the disciplinary proceedings against the respondent (Dr. Md. Yunus). A copy of the order has been annexed with the affidavit for perusal of this Court which reads, that penalty of reduction to lower post of Associate Professor for a period of two years, which shall be a bar to the promotion during this period to the post of Additional Professor. On the expiry of the said period, the period of reduction to the post of Associate Professor shall not operate to postpone future increments of his pay. Furthermore, the respondent shall not regain his original seniority in the higher post of service.

5) The grievance of the petitioners was against the direction i.e. filing of Vigilance Clearance on the count of pendency of the disciplinary proceedings. Those proceedings now have been finalized, therefore, the grievance of the petitioners does not survive. The petitioners shall have no hesitation in producing the documents required in accordance with law before the Tribunal.

6) Learned counsel for the petitioners has rightly pointed out that the petition by efflux of time, in view of later development i.e. finalization of the disciplinary proceedings and imposition of penalty is rendered infructuous.

7) Since the respondent has been selected as Professor at AIIMS, Bhopal, where he had to report within the time limit prescribed in the order of appointment, but, in view of the pendency of disciplinary proceedings, Original Application before Tribunal and now this petition, right of the respondent stands protected vide interim orders of this Court, in effect joining time for the respondent has been extended from time to time. The said directions protecting the right of the respondent (Dr. Md. Yunus) to join will remain in operation till the learned Central Administrative Tribunal considers the O.A. and passes appropriate orders finally or make any interim arrangement.

8) Disposed of as above along with connected MCs. Copy of the order be placed on record of MC [WP(C)] No.2 of 2018, MC [WP(C)] No.21 of 2018 and MC [WP(C)] No.83 of 2018.

9) A copy of this order be sent to the Central Administrative Tribunal, Guwahati Bench, Guwahati for information.

**(S.R. Sen)**  
**Judge**

**(Mohammad Yaqoob Mir)**  
**Chief Justice**

Meghalaya  
29.06.2018  
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