

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 06.08.2013

+ W.P.(C) 4676/2012

FAHIMUL HAGUE KHAN

..... Petitioner

Through: Mr Amit Gaurav, Adv with Petitioner-
in-person.

versus

UNIVERSITY GRANTS COMMISSION & ORS

..... Respondents

Through: Mr Ruchir Mishra, Adv for UOI

Mr Amitesh Kumar, Adv for UGC

Ms Sagari Dhanda and Mr P.K. Sharma, Advs for
R-3 (JNU)

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

In March, 2010, the respondent-University Grants Commission (UGC) came out with a scheme for providing Maulana Azad National Fellowships for Minority Students. The scheme was open to candidate, belonging to one of the minorities, to pursue higher studies such as regular/full time M.Phil/Ph.D. degrees in Science, Humanity, Social Science and Engineering and Technology. There were as many as 750 slots every year in the said scheme and 3% fellowships were reserved for Physically Handicapped candidates, belonging to minority communities. The objective of the scheme was to provide integrated five year fellowship in the form of financial assistance to the students from minority communities, as notified by

the Central Government, to pursue higher studies and the scheme covered all the Universities/Institutions recognized by UGC under Section 2(f) and 3 of UGC Act. The candidates, who belonged to minority communities and who had passed out post-graduation examination with minimum 50% marks in the concerned subject, were entitled to apply for the said fellowship. Another requirement of the said scheme was that the annual income of the beneficiary/parents/guardian of the beneficiary should not exceed Rs 4.5 lakhs from all sources. The tenure of the fellowship was initially for two years and before expiry of the said period, the work of the fellow was to be evaluated by a Committee of three members comprising Head of the Department, Supervisor and one outside subject expert, to be constituted by the concerned Department of the University/Institution/College. If the research work was found satisfactory, the tenure was to be extended further for a period of three years under the enhanced emoluments of the said Maulana Azad National Senior Research Fellowship. The recommendations of the Committee were to be submitted to UGC for upgradation to the aforesaid level. In case the work for the first two years was not satisfactory, the candidate was to be given one additional year for improvement. In such a case, his work was to be evaluated again before third year of the tenure and if improvement was found, the fellowship was to be given for two more years. Yet another eligibility requirement was that the candidate should get admission and registration for regular and full time

M.Phil/Ph.D. course in the University/Academic Institution not later than within a period of two years from the receipt of the award letter.

2. The petitioner before this Court, who at the time the aforesaid advertisement came to be issued by UGC, was already registered with JNU for Ph.D. in Persian and was amongst the candidates who applied for the aforesaid fellowship from UGC. The applications of as many as 33 such candidates were forwarded by JNU to UGC vide communication dated 03.04.2010. The name of the petitioner appears at serial No. 13 in the aforesaid letter. The grievance of the petitioner is that no fellowship has been granted to him though other persons, who were already registered for Ph.D. from JNU at the time the aforesaid scheme was advertised and whose names were included in the communication dated 03.04.2010, were granted the above-referred fellowship. The petitioner is accordingly seeking a direction to the respondent-UGC to consider his application for grant of Maulana Azad National Fellowship and payment of compensation in terms of the aforesaid scheme.

3. In its counter-affidavit, respondent No. 3-JNU has admitted the aforesaid scheme of UGC for grant of fellowship to the candidates from minority communities and has stated that pursuant to the said advertisement, issued by UGC, the students, belonging to minority communities and pursuing M.Phil./Ph.D. applied for grant of such fellowship and the applications duly signed by the

Chairperson of the Centre and Dean of Schools were forwarded to UGC for its consideration. The selection is made by a Selection Committee constituted by UGC as per its own procedure. It is further stated in the counter-affidavit of JNU that the application of the petitioner along with applications of other students duly signed by the Chairperson/Dean and Registrar of the University was forwarded vide letter dated 03.04.2010 and the said letter was acknowledged by UGC vide receipt dated 05.04.2010. It is also stated that the documents for award of the fellowship were also forwarded to UGC along with the applications of the candidates.

4. In its counter-affidavit, the respondent-UGC has taken a stand that the application of the petitioner was not received by the concerned section of UGC and, therefore, the application could not be considered. However, receipt of the letter dated 03.04.2010 from JNU is not disputed in the counter-affidavit of UGC.

5. It is thus quite clear that as far as JNU is concerned, there was no lapse on its part in processing the application of the petitioner for grant of fellowship since the applications of all the candidates, including the petitioner were duly forwarded to UGC along with supporting documents vide communication dated 03.04.2010. Since the only reason given by UGC for not considering the application of the petitioner is the non-receipt of his application in the concerned section of UGC, it is quite clear that the blame for non-consideration of the application of the

petitioner lies somewhere with one section or the other of UGC. Obviously, the petitioner cannot be denied the benefit of the fellowship merely on account of some lapse on the part of one official or the other of UGC. This is not the case of UGC that when the communication dated 03.04.2010 was received in the receipt section, the application of the petitioner was not enclosed to the said letter. Even if I presume for the sake of arguments that the application of the petitioner was not annexed to the letter dated 03.04.2010, UGC, on receipt of the said letter, ought to have written back to JNU, informing that the application of the petitioner had not been received by them though the letter contained reference to his application as well. From whatever angle, I may look at it, the responsibility for not considering the petitioner for grant of the aforesaid fellowship lies solely with the respondent-UGC.

6. For the reasons stated hereinabove, the respondent-UGC is directed to consider the application of the petitioner for grant of fellowship as per the provisions contained in the Fellowship Scheme and take an appropriate decision in this regard within eight weeks from today. The petitioner shall provide duplicate copy and supporting documents to JNU within one week from today, which will then forward the same to UGC within one week thereafter under intimation to the petitioner. In case, UGC finds the petitioner eligible for grant of fellowship, but does not have funds to provide the said fellowship, the respondent-Union of India

shall arrange to provide the funds to the extent required for grant of fellowship to the petitioner. The said amount can be provided by Union of India either by grant of additional funds or by making appropriate adjustment out of the grant it makes to UGC.

V.K. JAIN, J

AUGUST 06, 2013

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