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

+ W.P.(C) 2029/2013

BIRENDER SINGH ..... Petitioner  
 Through Mr. M.K. Gautam, Advocate

versus

UNION OF INDIA AND ORS ..... Respondents  
 Through Mr. M.P. Singh, Advocate for R-1.  
 Mr. Vikas Chopra, Advocate for R-3.

% Date of Decision : 28<sup>th</sup> February, 2014

**CORAM:**  
**HON'BLE MR. JUSTICE MANMOHAN**

### **J U D G M E N T**

#### **MANMOHAN, J: (Oral)**

1. Present writ petition has been filed seeking a direction to respondent no. 3 to restore the admission of the petitioner and allow him to appear in the practical examination for eighth semester. Petitioner has also prayed for quashing of respondent no. 3-University's letter dated 4<sup>th</sup> March, 2013 whereby result of fifth, sixth and eighth semesters of the petitioner have been declared null and void. Petitioner has further prayed for award of a degree of B.Tech. (Mechanical and Automation Engineering) in the academic year 2013.
2. The relevant facts of the present case are that petitioner obtained provisional admission in B.Tech. (Mechanical and Automation Engineering)

by way of lateral admission in third semester in 2009 with respondent-University.

3. The eligibility criteria of the respondent-University was stipulated in the admission brochure. One of the eligibility conditions prescribed for lateral admission in third semester was passing of a diploma course on or before 15<sup>th</sup> October, 2009. Subsequently, respondent-University extended the time for furnishing the final result of diploma course till 31<sup>st</sup> December, 2009.

4. The admitted position is that the petitioner passed the diploma course in June, 2011 and not in 2009.

5. Learned counsel for petitioner submits that as the respondent-University was aware in 2009 itself that the petitioner had not completed its diploma course, it should not have permitted the petitioner to carry on with the course for such a long time. In support of his submission, learned counsel for petitioner relies upon an order passed by respondent-University in pursuance to a direction passed by this Court in an earlier writ petition No. 692/2013 filed by the petitioner. The order dated 4<sup>th</sup> March, 2013 passed by respondent-University is reproduced hereinbelow:-

*“A reference is invited to order of Honorable High Court of Delhi dated 04.02.2013 bearing CM No. 1314/2013 on Writ Petition (Civil) No. 692/2013 dated 30.01.2013, Shri Birender Singh Vs. Union of India (R1), Government of NCT of Delhi (R2), GGS Indraprastha University (R3) & Northern India Engineering College (R4), Honorable High Court disposed of the Writ Petition directing that the Writ Petition be treated as representation by the University. In compliance of aforementioned order of Honorable High Court it is hereby intimated that:*

1. *Academic Branch, GGS Indraprastha University, vide their letter No. IPU-7/JR/(Acad)/Provisional Admission/B.Tech & LE-B.Tech/2009/5064 dated 24.12.2009 (copy enclosed) cancelled your Provisional Admission of Shir Birender Singh in LE-B, Tech (MAE) programme in Northern Indian Engineering College under Enrolment No. 00815607409 (P) due to non-submission of eligibility proof/non-fulfilment of eligibility criteria for respective programme, in consonance with the Note-2, Page 45, Admission Brochure-II for the session 2009-10.*
2. *Shri Birender Singh, concealed from the Examination Division the fact that his provisional admission cancelled by the University has not been restored by me Academic Branch and appeared in end term examinations of 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> & 8<sup>th</sup> semesters during the period from December 2009 to May 2012. The Examination Branch inadvertently declared results of Shri Birender Singh for 5<sup>th</sup>, 6<sup>th</sup> & 8<sup>th</sup> semester examination held in December 2010, May 2011 & May 2012 respectively.*
3. *As per the Academic Branch letter No. IPU-7/JR(Acad)/B. Tech Admissions/2011/1956 dated 21.05.2012 (copy enclosed), decision is pending on applications dated 08.05.2012 of Shri Birender Singh for Restoration of Admission which had been cancelled by the University in the Academic Session 2009-10.*
4. *Since admission of Shri Birender Singh had not been restored till 22.01.2013, his results for 5<sup>th</sup>, 6<sup>th</sup> & 8<sup>th</sup> semester examination held in December 2010, May 2011 & May 2012 declared inadvertently on 09.04.2011, 14.08.2011 & 07.08.2012 respectively have been declared Null and Void by the Competent Authority and the same has been communicated to Shri Birender Singh as well as the Director/Principal of the concerned institute, vide letter No. GGSIPU/IR-2/EXAM/2013-14/28 dated 22.01.2013 (copy enclosed). Furthermore, a copy*

*of aforesaid letter dated 22.01.2013 was also endorsed to the Academic Branch with the request to convey final decision in respect of Shri Birender Singh's application dated 08.05.2012 regarding restoration of admission.*

5. *Admission of Shri Birender Singh has not been restored so far by the Academic Branch therefore his request for declaration of LE B. Tech. (MAE) 3<sup>rd</sup> to 8<sup>th</sup> semester results as mentioned in writ petition civil no. 692/2013 has not been acceded to by the Competent Authority."*

6. Learned counsel for petitioner also states that as the petitioner has now concluded the diploma course, he should at least be granted admission from the date of completion of the diploma course in 2011.

7. On the other hand, learned counsel for respondent no. 3-University states that respondent-University was misled by the petitioner to believe that he had cleared his diploma course in the year 2009.

8. He further states that even in 2010 petitioner gave an impression to respondent-University, that he had subsequently cleared his diploma course and would shortly be submitting his final mark sheet. In support of his contention, learned counsel for respondent-University refers to petitioner's letter dated 25<sup>th</sup> February, 2010 which reads as under:-

*"25.02.2010*

*To,  
The Registrar,  
Guru Gobind Singh IP University  
New Delhi*

*Sub: To approve the admission in B.Tech 3<sup>rd</sup> (LE to B.Tech)*

*Respected Sir,*

*With due respect, I want to say that I Birender Singh student of*

*Northern India Engg. College, took admission in August, 2009 in NIEC in 3<sup>rd</sup> Semester in “MAE”: Branch. After than I have also given my 3<sup>rd</sup> Semester examination in December, 2009. Due to incomplete documents, the IP University cancelled my provisional admission. I was unable to fulfil my documents because my Board of Polytechnic CBTC did not issue my final mark sheet. But after that BTEC Board gives the final mark sheet on 24.02.10 to me. Now I am able to fulfil all the criteria required for admission. I am submitting my final marksheet of Diploma to IP University. So due to consider my application approve my admission.*

*Yours obediently.*

*Thanking you.*

*Sd/-*

*(Birender Singh)*

*MAE (4<sup>th</sup> Sem)”*

(emphasis supplied)

9. Having heard learned counsel for parties, this Court finds that the petitioner could have been granted provisional admission in B.Tech. (Mechanical and Automation Engineering) by way of lateral admission only after clearing the diploma course.

10. Since, admittedly, petitioner cleared the diploma course in 2011, respondent-University in accordance with its guidelines and brochure could not have granted admission in 2009 to the petitioner for B. Tech course. Consequently, petitioner’s admission to B.Tech. course in 2009 was illegal, void *ab initio* and the petitioner was not eligible to pursue the said course.

11. Though the petitioner has admittedly cleared some of the semesters of the B.Tech. course, yet this Court is of the view that as the petitioner could not have simultaneously pursued both diploma as well as degree course, results of the said semester were rightly set aside by the respondent-

University.

12. This Court is also of the view that petitioner was permitted by respondent-University to carry on with the course after cancellation of his provisional admission on 24<sup>th</sup> December, 2009 only because the petitioner had mislead the respondent-University. In fact, petitioner's own letter dated 25<sup>th</sup> February, 2010 clearly conveys an erroneous impression to respondent-University that petitioner had cleared his diploma course in the year 2010.

13. No contemporaneous correspondence has been placed on record by the petitioner to show that he had ever communicated to respondent-University that he had not cleared his diploma course in 2009 or till 2011.

14. This Court is constrained to observe that all problems that have arisen in the present case are entirely attributable to the acts of the petitioner.

15. Consequently, in the opinion of this Court, petitioner is not entitled to any equitable relief. Accordingly, present petition is dismissed, but without any order as to costs.

**MANMOHAN, J**

**FEBRUARY 28, 2014**

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