

Court No. - 10

Case :- WRIT - C No. - 26065 of 2023

Petitioner :- Fiza

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- R.S. Pandey, Rajshree Malviya

Counsel for Respondent :- C.S.C., Praveen Kumar, Rohit Pandey

Hon'ble Kshitij Shailendra, J.

1. Counter affidavit filed on behalf of respondent No. 3 is taken on record.

2. Heard Shri R.S. Pandey, along with Ms. Rajshree Malviya, learned counsel for the petitioner, learned Standing Counsel for the respondent Nos. 1 and 2, Shri Anoop Trivedi along with Shri Praveen Kumar, learned counsel for respondent No. 3 and Ms. Shambhavi Tiwari, learned counsel holding brief of Shri Rohit Pandey, learned counsel appearing for the respondent No. 4.

3. This writ petition has been filed claiming the following reliefs:

(i) Issue a writ, order or direction in the nature of Mandamus directing the respondents to take the admission in the first semester of B.Tech Ist year in the Institution of United Technical College Naini Allahabad after taking fee of Rs. 57,576/-only.

(ii) Issue a writ, order or direction in the nature of Mandamus by directing the respondents if the admission in B.Tech Ist year is not possible in that event the deposited amount of the petitioner be returned back with interest as well as damages."

4. Insofar as the **first relief** is concerned, the same relates to admission in B.Tech Ist year. According to Shri Trivedi, Academic Session of B.Tech Ist year commenced in July, 2022 and ended in

July, 2023 and this writ petition was filed in the third week of July, 2023 and, therefore, admission cannot be granted to the petitioner, particularly in view of time line fixed by the Hon'ble Supreme Court in the case of ***Parshvanath Charitable Trust and others vs All India Council for Technical Education and others***, reported in (2013) 3 SCC 385.

5. As regards the **other part of prayer No. 1**, i.e. the fees of Rs. 57,576/-, (rupees fifty seven thousand five hundred seventy six), the submission of learned counsel for the petitioner is that the petitioner is a poor person and had enquired from other sources that only this much fees can be charged and not beyond that. The said argument has been opposed by the learned counsel for respondent No. 3 by placing reliance upon interim order dated 27.07.2017 passed in Writ C No. 32595 of 2017 (***United College of Engineering & Research, Allahabad vs State of U.P. and another***), which reads as follows:

"The petitioner is an unaided Professional Educational Institution. It is recognized by the All India Council for Technical Education (AICTE) for running courses in B.Tech, M.Tech. and MBA.

The grievance of the petitioner is that the 2nd respondent, vide order dated 15.6.2017 has determined the fees for the years 2017-18; 2018-19; and 2019-20 for B.Tech Course, M. Tech. and MBA Course as Rs. 57,576/-. According to the petitioner, for the previous three years, vide order dated 6.8.2014, the 2nd respondent had fixed the fee of the petitioner institution at Rs. 83,425/- per student for both the courses. But now the fee has been substantially reduced without any justifiable reason.

The matter requires consideration.

Learned Standing Counsel has accepted notice on behalf of the respondents 1 and 2.

He prays for and is allowed six weeks time to file counter affidavit. Two weeks thereafter shall be for the petitioner to file rejoinder affidavit.

List this petition on 20.9.2017.

In the meantime, it is provided that the petitioner shall be allowed to admit student at the fee fixed vide order dated 6.8.2014 (Annexure No. 9 to the writ petition), subject to an undertaking submitted by the petitioner, within a period of two weeks, before the 2nd respondent that in the event of dismissal of the writ petition, the petitioner shall refund the difference in the fee to each of the students who have taken admission to the aforesaid courses."

6. It is contended by Shri Trivedi that fees fixed by the concerned Committee is Rs. 83,425/- (rupees eighty three thousand four hundred twenty five) and, by a Government Order, the said fees was reduced to Rs. 57,576/-, ((Rupees fifty seven thousand five hundred seventy six), however this Court, by the aforesaid interim order, permitted the Institution to take admission as per the fees fixed under the order dated 06.08.2014 passed by the Committee. The interim order, however, clarifies that in the event of dismissal of the writ petition, the Institution shall refund the difference of fees.

7. In view of above discussion, prayer No. 1 cannot be granted and is hereby refused.

8. Insofar as the **second prayer** regarding refund of amount deposited by the petitioner, it is admitted between the parties that only a sum of Rs. 21,000/- (rupees twenty one thousand) has been deposited by the petitioner on 17.10.2022. Regarding the guidelines concerning fees, Ms. Shambhavi Tiwari, learned counsel has placed reliance upon Clause 21 of Uttar Pradesh Technical Admission Counselling Brochure/Guidelines, which reads as follows:

" 21. The fee paid at the time of counselling by the candidate, after the allotment of seat will be forfeited and will not be refunded under any circumstances (except in the case of withdrawal from counselling as per schedule), even if the candidate does not report for the admission to the allotted institutions."

8. In view of above, in case the petitioner wants refund of fees deposited, the same is dependent upon the stage at which the petitioner had deposited the said amount and the University is at its wisdom to take a decision on the question of refund as per guidelines.

9. The writ petition is **disposed of** permitting the petitioner to file an application before the concerned Authorities of the University claiming refund of Rs. 21,000/-. (rupees twenty one thousand). The Authorities shall take a decision on the petitioner's application **by 15.01.2024.**

10. It is made clear that this Court has not issued any direction for refunding the amount and the Authorities are at their discretion to take a decision after examining the record and based on the concerned guidelines in accordance with law.

Order Date :- 2.11.2023

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