

Court No. - 4

Case :- WRIT - C No. - 2089 of 2013

Petitioner :- Harendra Pal Verma

Respondent :- State Of U.P. Thru Secy. And Others

Counsel for Petitioner :- S.P. Srivastava, Ashish
Srivastava, Dharmendra Shukla

Counsel for Respondent :- C.S.C., Kameshwar Singh, P.K.
Upadhyay, P.K. Ganguly, S.N. Singh

Hon'ble Prakash Padia, J.

1. Heard Sri Dharmendra Shukla, learned counsel for the petitioner, learned Standing Counsel for respondent No.1, Sri P.K. Ganguly, learned counsel for respondent Nos.2, 3 & 4 and Sri Kameshwar Singh, learned counsel along with Sri Rakesh Kumar, learned counsel for respondent No.5.

2. The present writ petition has been filed by the petitioner for quashing of the order dated 21.11.2012 passed by the Registrar, Sardar Ballabh Bhai Patel Agriculture & Technical University, Meerut (hereinafter referred to as "Meerut University"), with a further prayer for mandamus commanding the respondent to refund the amount of Rs.50,000/- deposited by the petitioner for admission in M.B.A. (Agriculture Business Management) Course for payment seat.

3. The facts as stated in the writ petition are that the petitioner had appeared in Combined Agriculture & Technical Entrance Test, 2011 (CATET) for admission in M.B.A. (Agriculture Business Management) Course. After declaration of result of the entrance examination, general rank in Group was 37 and category rank 17. The counselling for admission was fixed on 3.8.2011 at Bio Technology Degree College Auditorium, Meerut University. In 1st round of counselling, certain seats remained vacant due to non-

availability of Schedule Caste Category Candidates, as well as for the reason that the selected candidates have not taken their admission, as such, 2nd round of counselling was conducted on 18.8.2011.

4. One female candidate, namely, Km. Prerna Verma was not allowed in 1st round counselling for the reason that she could not produce her testimonials. She was allowed to participate in 2nd round of counselling and she was accorded admission on free seat and the petitioner was thus compelled to get appointment on paid seat and accordingly the petitioner deposited Rs. 50,000/- for paid seat.

5. The petitioner was directed to appear before Chandra Shekhar Azad Technical & Agriculture University, Kanpur Nagar (hereinafter referred to as "CSA University"), where he has deposited fee of Rs. 64,600/-.

6. Subsequently the admission of Km. Prerna Verma was cancelled by the University and thus the petitioner became entitled for admission against free seat, but wholly illegally, one person, namely, Pushpendra Singh having 39 rank, was offered free seat and was admitted in course against free seat.

7. The petitioner having rank of 37, was entitled for free seat, after cancellation of admission of Km. Prerna Verma but the said seat was wholly illegally offered to a less meritorious candidate.

8. On being objected by the father of the petitioner, the Registrar of Meerut University by letter dated 14.10.2011 intimated the father of the petitioner that for refund of Rs. 50,000/-, proceedings are continuing and shortly the said amount of Rs. 50,000/- will be refunded.

9. It is further stated in the writ petition that the Registrar of Meerut University by letter dated 14.10.2011 intimated

Pushpendra Singh that he was wrongly granted admission under free seat. By the said letter, Pushpendra Singh was further directed to deposit Rs. 50,000/- so that the said amount be refunded to the petitioner.

10. It is further stated that by the letter dated 14.11.2011, the CSA University also directed Pushpendra Singh to deposited Rs. 50,000/-, as his admission against free seat was wrong. By the said letter it was further intimated to Pushpendra Singh that in case he fails to deposit the said amount, his candidature will be cancelled. It is further stated that on repeated request made by the father of the petitioner, the said amount was not refunded to the petitioner and ultimately, by order dated 21.11.2012, the respondent No.4 refused to refund the said amount on the ground that once the payment seat has been accepted and subsequently any free seat fall vacant, the candidate of paid seat will not be entitled for refund of the said amount. The said order dated 21.11.2012 is under challenged in the present writ petition.

11. A counter affidavit has been filed on behalf of the Meerut University/ respondent nos. 2, 3 & 4. The Meerut University in paragraph 13 of its counter affidavit has stated that CATET 2011 was conducted by the Meerut University, M.B.A. course is not available in Meerut University and accordingly the admission was granted to the petitioner in CSA University and Rs.50,000/- deposited by the petitioner for paid seat was remitted to CSA University.

12. It is further stated that there had been a meeting of Registrar of Meerut University & CSA University and after considering the entire facts it was resolved that once the admission against paid seat has been granted, the candidate is not entitled for refund of fee of paid seat. It was further resolved in the said meeting that the

admission of Pushpendra Singh be treated as against free seat.

13. No counter affidavit has been filed by the respondent No.5, i.e. the Registrar of CSA University, however the counsel for the respondent No. 5, on the basis of the instruction, has submitted that the petitioner has deposited only fee of the University, i.e. Rs. 63,700/- for each year and no other fee has been remitted by the Meerut University to CSA University, as such, they could not refund the said amount. The instruction of Finance Controller obtained by the counsel for the respondent No. 5 contains the fact that some time be granted to verify the fact of receipt of Rs. 50,000/- from Meerut University, and in case the said amount is remitted by the Meerut University to CSA University, they will refund the said amount to the petitioner.

14. Heard learned counsel for the petitioner, Shri Advocate P.K. Ganguli, Advocate on behalf of respondent nos. 2 to 4 and Shri Rakesh Kumar, Advocate for respondent no. 5.

15. The impugned order dated 21.11.2012 is based on the condition of admission, i.e., that in case the admission is obtained against paid seat and subsequently any free seat became vacant, the candidate of paid seat cannot be adjusted against free seat and the amount deposited for paid seat will not be refunded.

16. Be that it may the admitted facts are that the petitioner having higher rank, i.e., 37, was entitled for free seat, but wholly illegally a less meritorious candidate at Sl. no. 39, namely Pushpendra Singh was granted admission against free seat. It is not a case that at the time of admission on paid seat, no free seat was available. Free seat was illegally offered to Pushpendra Singh, thus for wrong done by the respondent, the petitioner cannot be penalized and in this view of the matter, the impugned order dated 21.11.2012 is illegal and is hereby quashed

17. The case of Meerut University is that the amount of paid seat has been remitted to CSA University, whereas the case of the respondent no. 5, i.e. CSA University is that they have not received the amount. The learned counsel for both the Universities have agreed that the competent authorities of both the Universities will resolve the said dispute regarding remittance of fee from Meerut University CSA University within 15 days from the date of communication of the order.

18. The present order has been passed in presence of both the counsel. Both the counsel are hereby directed to communicate the present order to the competent Authority of their respective Universities, latest by 30.11.2023. The Competent Authority, i.e., Registrar of Meerut University & CSA University are hereby directed to reconcile their statements and find out that the amount of Rs. 50,000/- is with whom. After conclusion is arrived upon regarding availability of the said amount of Rs. 50,000/- with the University, the said University will refund the said amount of Rs. 50,000/- to the petitioner by 30.12.2023.

19. In case, the amount is not refunded to the petitioner by 30.12.2023, the responsible University will be liable to pay interest @ Rs. 8% per annum from 2012 till date the amount is paid to the petitioner.

20. The petitioner is also directed to provide his all details including Bank Account Number and Aadhar detail to Registrar of Both the Universities, by 30-11-2023 so that the University may communicate the refund with the petitioner.

21. With the aforesaid observations, the writ petition is allowed.

22. No order as to costs.

Order Date :- 3.11.2023

Pramod Tripathi