

CWP No.16358 of 2011

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.16358 of 2011
Date of decision:28.05.2015**

R.S.Garg

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Rajnish Gupta, Advocate,
for the petitioner.

Mr. Roopam Jain, Advocate,
for the respondents.

Rakesh Kumar Jain, J.

The petitioner has prayed for issuance of a writ in the nature of *mandamus*, declaring the action of respondents no.2 to 4 for not refunding the tuition fee amounting to ₹3,18,500/- along with hostel fee of ₹18,540/- to the petitioner as illegal and arbitrary.

In brief, daughter of the petitioner got admission in B.F.Tech. (Knitwear) Designed Degree Course with the National Institute of Fashion Technology, NIFT Campus, Navi Mumbai (hereinafter referred to as the “respondent-institute”) in the session 2008-09. After confirmation of admission on 22.07.2008, the petitioner deposited an amount of ₹3,41,843/- towards tuition fee and ₹54,000/- towards hostel fee. Daughter of the

petitioner attended the classes from 04.08.2008 to 13.08.2008 in the respondent-institute. Thereafter, she applied for 4 days leave with the Executive Engineer of the respondent-institute on 13.08.2008 as she was not finding the climate of Navi Mumbai suitable to her and ultimately, daughter of the petitioner decided to discontinue her course. The petitioner requested the respondent-institute for refund of the fee vide letter dated 18.08.2008 but the respondent-institute, vide their letter dated 16.09.2008, refunded only a sum of ₹35,460/- towards the hostel fee. They also refunded a sum of ₹24,500/- on 28.02.2011. Now the petitioner has claimed that since his daughter did not study in the respondent-institute, therefore, he is entitled to refund of the entire tuition fee along with hostel fee deposited by him.

After notice, reply has been filed by respondents no.2 to 4 alleging that the fee has been refunded to the petitioner as per terms and conditions of the prospectus. It is also alleged that since the petitioner's daughter did not withdraw from the course before joining it and the seat vacated by her could not be filled up, therefore, the petitioner is not entitled to refund of the entire tuition fee.

Counsel for the petitioner has argued that as per norms of the University Grants Commission, the respondent-institute has to refund the fee in the event of a student withdraws from the course. In order to buttress his argument, he has relied upon the following judgments:-

1. **Prabhjot Singh v. Punjab University, Chandigarh and others**, 2010(1) SLR 424,
2. **Meenu Kaur v. Shri Guru Ramdass Institute of**

Dental Sciences and Research, Amritsar and another,
2011(3) SLR 423;

3. **Nitish Bhardwaj v. Kurukshetra University,**
Kurukshetra, 2013(1) PLR 304;
4. **Sonal Srivastava v. Panjab University and another,**
2008(1) SLR 593; and
5. **Puneet Nagpal and another v. Panjab University and**
another, 2012(2) SLR 238.

On the other hand, counsel for the respondent-institute has submitted that the petitioner would have been entitled to refund of the entire tuition fee had his daughter not joined the course and the seat vacated by her was filled up. He has also referred to the undertaking dated 21.07.2008 given by the petitioner to the effect that *“I further confirm that in case of my withdrawal from the programme, only Rs.24,500/- will be refunded by NIFT. Withdrawal of candidature will lead to forfeiture of the entire fee and no dispute will be raised by me on this account and decision of the DG-NIFT will be final in this regard”*. He has further relied upon two decisions of this Court in the cases of **“Robin Goyal v. Punjabi University, Patiala and another”**, CWP No.14543 of 2014, decided on 04.05.2015 and **“Atul Suyal v. Punjab Technical University and another”**, CWP No.11201 of 2014, decided on 01.04.2015.

I have heard learned counsel for the parties and examined the available record.

It is not disputed that the daughter of the petitioner got

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admission in the respondent-institute and also attended the classes from 04.08.2008 to 13.08.2008. The amount of ₹35,460/- was refunded to the petitioner towards the hostel fee after necessary deductions of mess charges and electricity charges etc. An amount of ₹24,500/- has also been refunded towards the security deposit. The petitioner had given an undertaking at the time of admission of her daughter in the NRI quota that in case her daughter withdraws from the programme, he would be entitled to refund of ₹24,500/- only and the entire tuition fee would be forfeited and he would not raise any dispute in this regard.

Moreover, the instruction issued by the University Grants Commission, relied upon by counsel for the petitioner, also goes against the petitioner, which clearly stipulates that no fee shall be refunded after a candidate joins the course especially when the seat vacated by that candidate remains unfilled. The judgments relied upon by counsel for the petitioner are not applicable to the facts and circumstances of this case rather the said judgments have already been dealt with by this Court in **Robin Goyal's case (supra)**, while declining his claim for refund of tuition fee.

In view thereof, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

May 28, 2015
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(**Rakesh Kumar Jain**)
Judge