

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

CWP No. 12325 of 2015 (O & M)

Reserved on: 01.09.2015

Date of decision: 18.09.2015

Arya Shrestha Upadhyay

....Petitioner(s)

Versus

World College of Technology and Management and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Ashok Tyagi, Advocate,
for the petitioner.

Mr. Ashish Gupta, Advocate,
for respondent no. 1.

Mr. Aditya Bhardwaj, Advocate,
for respondents no. 2 and 3.

Mr. Sumeet Sheokand, Advocate,
for Mr. R.S. Tacoria, Advocate,
for respondent no. 4.

Mr. Ashok Kumar Sharma, Advocate,
for Mr. S.K. Sharma, Advocate,
for respondent no. 5.

G.S.SANDHAWALIA, J.

The present writ petition has been filed for quashing the action of the respondents of not issuing admit card to the petitioner for the first semester examination of B.Tech (Mechanical Engineering) Course and for refund of fees of ₹87,500/- alongwith interest from the date of deposit alongwith litigation charges of ₹25,000/- and compensation of ₹2,00,000/- as damages. Additional prayers have been made that respondents no. 4 and 5 should cancel the affiliation and approval of respondents no. 1 to 3 and for

direction of registration of criminal case for fraud and cheating.

The pleaded case of the petitioner is that respondent no. 1- institute namely the World College of Technology and Management had advertised that they are recognized by AICTE-respondent no. 5 and affiliated to the MDU-respondent no. 4 for various technical courses. The petitioner having passed his +2 from a school in Dwarka had approached it for admission in appropriate B.Tech/Diploma in Mechanical Engineering course for the session 2014-15 on 06.07.2014. Admission was given with the assurance that the petitioner would be given the best/specialized on campus placement and on the basis of the said assurance, the admission was taken in B.Tech/Mechanical Engineering course by paying ₹5,500/-. The said course was two years diploma which was later changed to the B.Tech Mechanical Engineering Course (4 years) in pursuance to the advise and inducements made by respondents no. 1 to 3. It was admitted that initially the admission form was filled for the course of diploma and thereafter, a fresh form was got filled and additional fees was taken since the fees varied from ₹35,000/- per year for one course and ₹87,000/- per year for the other course. Classes were attended from 04.08.2014 as students were issued entry cards but the petitioner's card was withheld and was issued subsequently.

In the internal first sessional examinations, the name of the petitioner was not included in the list of eligible students and he, alongwith his aged father, was made to run from pillar to post and could only sit in one paper of Chemistry. An additional sum of ₹43,500/- was again charged on 10.11.2014 and the receipt showed that the admission was in the course of B.Tech. In December, 2014, the name of the petitioner was not figuring in

the list of candidates and no admit card was issued to him and he was informed that no registration or details of admission had been forwarded to the respondent-university. Reference was made to the photocopy of the receipts to show that forgery had taken place and the receipts bearing the same number of even date but for different courses (diploma/degree) had been issued and reliance was accordingly placed upon the no due certificate to show that the admission was in the degree course. Thereafter, a legal notice dated 02.03.2015 (Annexure P-7) was served and in the reply of the university, it was clearly mentioned that the petitioner's name was not in the list which was received from the Haryana State Technical Educational Society. A complaint was also filed with respondents no. 7 and 8 namely the police authorities for taking legal action but no action had been taken. Resultantly, the writ petition has been filed.

In the defence of respondent no. 1, it was pleaded that there were alternative remedies for the relief which had been claimed and the petition was an abuse of the process of law. The AICTE had sent a reply to the counsel of the petitioner and they had been informed that they have a Grievance Redressal Committee and Ombudsman for the redressal of the grievances. The management was imparting quality education since 2007 and more than 2000 students had successfully completed their studies. At present also, 1500 students were undergoing various courses. The name of the petitioner had been sent for approval against the diploma engineering course as per his roll number and it was himself admitted by the petitioner. In October, 2014, the petitioner had approached respondent no. 1 and informed that there were no future prospects in the diploma course and it was a mistake made by opting for the same and that he had requested that

the admission be granted in the degree course. The petitioner was informed that the registration would be rejected by the university since the cut off date was 16.08.2014 and extended upto 05.09.2014 but he insisted to ahead with the request of change of course. The registration charges were deposited with the university in October, 2014 and the same were appended as Annexure R-1/4 and the petitioner was informed that in case the registration is not approved, he would not be allowed to continue the course. He was allowed to sit in the classes so that he did not lose his studies and it was decided that the petitioner could wait for one year and he would take admission in the management seat in the academic year 2015-16. On account of non-registration by the university, it was decided that the petitioner would wait for one year and he would take admission in the management seat for the academic year 2015-16 and his deposited fees would be adjusted in the next academic year. The petitioner had left for his house to stay with his parents and thereafter, a legal notice had been served. The petitioner's father had been asked to come to the college for effective resolution but he kept delaying the matter and even reply was sent to the legal notice on 11.06.2015 and he was informed to collect the documents vide letter dated 19.06.2015 but no steps have been taken.

A perusal of the pleadings would thus go on to show that admittedly there is an admission by the petitioner himself that he had taken admission in the diploma course initially and subsequently he seems to have changed his course and took admission in the degree course but on account of the cut off date, his name was not registered by the HSTES. The defence of the college is that receipts were not forged but only changed for the purpose of record since the petitioner was claiming that the fees be set off

against the degree course. Document Annexure R-1/2, which is the application form itself, shows that the admission was filled for the diploma course in Engineering by the petitioner and in the final admission list of diploma (Engineering) (Lateral Entry) issued by the HSTES (Annexure R-1/3), his name also figures at Sr. No. 14. It is only in October, 2014, the petitioner deposited the amount of ₹5,030/- for the degree course which, as noticed, has been deposited by respondent no. 1-college with the university on 09.10.2014 (Annexure R-1/4). The college, in its reply on 11.06.2015 to the legal notice dated 02.03.2015, also took the same defence that he could apply for refund or get the fees adjusted for the academic session 2015-19 and that it had also been directed to take all certificates and documents by hand on any working day. In such circumstances, the argument that the petitioner has been frauded in any manner is not sustainable. Even otherwise, disputed questions being raised regarding which course he had taken admission cannot be adjudicated by this Court in view of the settled principle of law that the Writ Court is not to adjudicate on disputed facts as has been held by the Apex Court in ***City Industrial Development Corporation vs. Dosu Aardeshir Bhiwandiwalla and others, 2009 (1) SCC 168*** and in ***Jacky vs. Tiny @ Antony and others, 2014 (6) SCC 508***.

In such circumstances, the question for cancellation of affiliation or for payment of damages and for the refund of the fees does not arise. However, one aspect does remain un-addressed by the respondents which is the subsequent deposit of a sum of ₹43,500/- for the degree course in which the petitioner was never admitted and which was deposited on 10.11.2014 as per Annexure P-4 (colly). The deposit of the said fees is also not denied by the respondent-college and the only plea taken is that the

father of the petitioner had been asked to come and resolve the issue and he had refused and rather there is an admission that the payments have been received. In such circumstances, the deposit of the fees for the said course in which the admission was never granted is liable to be refunded to the petitioner.

Accordingly, the writ petition is partly allowed to the extent that a sum of ₹43,500/- deposited on 10.11.2014 shall be refunded to the petitioner within a period of one month from the date of receipt of certified copy of the order.

18.09.2015
shivani

(G.S. SANDHAWALIA)
JUDGE

