
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.18968 of 2014

Date of decision: 4.12.2015

Rashima Kapoor

...Petitioner

Versus

Punjabi University and another

...Respondents

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

Present: Mr. Hemender Goswami, Advocate for the petitioner.

Mr. Vishal Khatri, Advocate for the respondents.

G.S.SANDHAWALIA, J (Oral)

The present petition has been filed for quashing order dated 8.5.2014 (Annexure P/3) wherein the petitioner's demand for refund of fee of ₹ 57,730/- has been declined on account of the fact that security refund of ₹ 32,550/-had already been given.

The pleaded case of the petitioner is that she had applied for admission in B. Tech. (Electronics and Communication Engineering) with the respondent-university on the basis of JEE main examination and deposited a sum of ₹ 90,280/-on 17.7.2013. She got admission with the Guru Nanak Dev University, Amritsar on 1.8.2013 and therefore, preferred the same and took admission at Amritsar on 2.8.2013. She made a request for cancellation of her admission and for refund of fee. The admissions could take place upto 14.8.2013 and 2-3 more counselling were yet to take place and the classes were started on 14.8.2013 and thus the seat vacated by the petitioner could be filled by another candidate. Her case for refund as noticed has been denied on account of the fact that amount of ₹ 32,550/- has already been paid to her.

In the written statement the plea taken was that the classes had started on 1.8.2013 and therefore, the seat which was vacated by the petitioner remained unfilled. Reliance has been placed upon Clause 1 that deduction could be made if the candidate leaves the course after joining the department. The vacated seat was to be filled upto the last date of admission and refund would be made after making proportionate deduction.

It is not disputed that admission could be made upto 14.8.2013 and that the petitioner had left the seat on 2.8.2013. It is also not disputed that it was open to respondent-University to make efforts to fill up the seat since the last date of admission was more than 10 days away. Clause 1 rather supports the case of the petitioner that if the candidate leaves after the last date of admission then no refund is to be made. The purpose of Clause is clear when the college loses out the seat on account of leaving the course midway by the student after the last date of admission. In the present case, the petitioner had left before the last date of admission and it was open to the respondent-University to fill up the vacant seat and therefore, fault cannot be put upon the shoulders of the petitioner. Clause 1 reads as under:-

“1. After taking admission if the candidate leaves the course **before the start of classes** then the refund will be made by deducting 10% of the tuition fee (maximum of Rs.10,00/-) as the processing fee. **The concerned Head of the Department will certify that the seat vacated by the candidate has been filled.** If the candidate leaves the course after joining the department and **the vacated seat is filled upto last date of the admission to the course, then the refund will be made after making proportionate deductions.** If the candidate leaves the course after the last day of the admission then no refund will be made.”

Counsel for the petitioner is well justified in placing reliance upon the judgment of this Court in **CWP No.20901 of 2011-Nitish Bhardwaj Vs. Kurukshetra University, Kurukshetra** decided on 15.11.2012 wherein in similar circumstances, fee was ordered to be refunded on account of candidate taking admission in another institute. Relevant portion of the judgment reads as under:-

“The whole case set up by the respondent is that petitioner has left the seat on the last date of admission and thus, the seat, therefore, had remain vacant. There is no dispute that in the present case the seat left by the petitioner remained vacant but equally true it is that the petitioner had requested for refund of the fee within time. The condition contained in the prospectus does contain a provision for refund of fee.

Reliance has been placed on an order passed in CWP No. 13308 of 2009 titled as **Sh. Atam Parkash Khatter and others vs. Commissioner & Secretary to Govt. of Haryana and others**, decided on 21.7.2010 where Court has considered the same issue concerning the refund of fee. It was observed that the student who is aspirant of doing a professional degree like Engineering or Medical, would be keen to secure and study at such institution, which has a better repute. Thus, no fault can be found in action of the petitioner in seeking admission in another institution at Karnal and then praying for refund of the fee as he did not intend to pursue his study with respondent-institution. The facts of the present case are identical to the facts contained in **Atam Parkash Khatter's case (supra)**.

The directions, therefore, are issued to the respondent institution to refund the fee after deducting the requisite amount of admission fee of ` 1000/- and by deducting one month fee for which the petitioner had attended the classes. I am not inclined to grant interest on the amount which is to be refunded as ordered above.

The writ petitions are accordingly disposed of in the above terms.”

Accordingly, keeping in view the above discussions, a direction is issued to the respondent-University to refund the tuition fee of ₹ 57,730/- after deducting ₹ 2730/- as necessary expenditure. Let the needful be done within a period of one month from the receipt of a certified copy of this order.

Accordingly, the present writ petition is allowed.

December 04, 2015
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(G.S.SANDHAWALIA)
Judge