

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

**CWP No.21232 of 2014
Date of decision : 30.11.2015**

Babneet Singh

....Petitioner

Versus

State of Punjab & ors.

....Respondents

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

Present: Mr. Naresh Kumar, Advocate
for the petitioner.

Mr. L.S.Virk, Addl. AG, Punjab.

Mr. Ashish Rawal, Advocate
for respondent No.2.

Mr. M.K.Singla, Advocate
for respondent No.3.

G.S.Sandhawal, J. (Oral)

In the present petition, prayer is for refunding the tuition fee, hostel fee, library fee, securities and other fees along with security cheques given at the time of admission to respondent No.3- college along with interest @ 18%. There is further prayer for direction to the respondents to return the original educational certificates and to award damages for the humiliation and harassment to the petitioner. The cheques, which were given for security be not misused as the petitioner had left the college in the beginning itself.

The case of the petitioner is that the petitioner cleared the PMET -2010 test held by respondent No.2 and got admission in BDS course with respondent No.3 in the Scheduled Caste category and deposited Rs.1.50 lacs for the course on 01.09.2010 (Annexure P-2).

It is the case of the petitioner that he was asked to furnish bank

guarantee and therefore, not adhering to the demand of the respondent-institute, he left the college without completing the course. Resultantly, he had approached the Consumer Disputes Redressal Forum by filing a complaint. The complaint was partly allowed on 14.02.2012 (Annexure P-8) and directions were given to refund the security amount of college library and hostel along with interest @ 9% p.a. and return the original educational certificates. The payment of Rs.10,000/- as compensation for harassment and Rs.5,000/- towards litigation expenses were also ordered. However, appeal of respondent No.3 was allowed on 14.03.2014 by the State Consumer Disputes Redressal Commission on account of maintainability whereas the cross appeal filed by the petitioner was dismissed. Thereafter, the present petition was filed for necessary relief.

Respondent No.3 has submitted that the petitioner had left the course in the middle of the session and as per Note 3, he was to pay the fee on annual basis and also to furnish a surety bond/bank guarantee that he would pay the balance fee for the whole course even if he leaves the institute/course midway course.

The said note reads as under :

"Note 3 The fee will be payable on annual basis and the institutes shall not insist on the candidate to deposit fee of the entire course in advance. At the most candidates can be asked to furnish a bond/bank guarantee that they will be liable to pay the balance fee for the whole course even if they leave the institute/course midway course."

It is further the case of the said college that the

respondent had never stopped the petitioner from attending the classes rather it had sent notices regarding the absence of the student to his father. It is further submitted that the admission could not be made against the seat left by the petitioner, which remained vacant and in such circumstances, the writ petition is liable to be dismissed. The respondents are ready to return the original documents according to the prospectus and petitioner was asked to clear all the dues.

No replication has been filed regarding the aspect that the seat could not be filled up and that some other student had been admitted in the place of the petitioner.

Learned counsel for the respondents has placed reliance upon judgment of this Court in **CWP No.16711 of 2010** titled as **Gaurav Uppal vs. State of Punjab & ors.**, decided on 21.02.2012 wherein similar clause in the prospectus was subject matter for consideration.

This Court keeping in view the observation the Hon'ble Apex Court in **Islamic Academy of Education vs. State of Karnataka**, AIR 2003 Supreme Court 3724 relegated the petitioner to seek any other remedy before the Civil Court. The relevant portion reads as under:

*"Learned counsel for the respondent-College has relied upon a decision of the learned Single Judge in the case of **Harshdeep Singh vs. Institute of Engineering & Technology and others** (CWP No.6981 of 2009 decided on 4.2.2010) with regard to refund of fees. The learned Single Judge has held that various seats including one surrendered by the petitioner therein cannot be filled up. Then in terms of norms/rules, the candidates would not be entitled to refund of fee. Learned*

*counsel further relies on the Constitution Bench decision in the case of **Islamic Academy of Education v. State of Karnataka, AIR 2003 Supreme Court 3724** to submit that there is prohibition imposed by the Hon'ble Supreme Court on collecting fees in advance for the entire course i.e. for all the years, however, where a College apprehends that a student might leave the Institute mid-stream, it can require the student to give a bond/bank guarantee for balance fees of the entire course. This principle has been evolved in the case of private unaided medical institutions which rely on fees to sustain the medical programme, and the huge expense involved in imparting education leading to grant of degrees for students in full capacity of the sanctioned intake of seats determined by statutory bodies like the Medical Council of India or Dental Council of India etc.*

In view of the legal position culled out from the provisions of PMET, 2008, the Prospectus of the respondent-College, the decisions of the learned Single Judge and the Constitution Bench in Islamic Academy of Education (supra), I do not find anything remiss in the respondent-college having retained part of the fee by refunding hostel fee and security. As a matter of fact, the respondent-College has placed on record a photocopy of a letter signed by the petitioner's father (Annexure R-3) clearing college dues resulting from a seat going to remain vacant. I do not find sufficient ground to interfere in the matter in exercise of writ jurisdiction under Article 226 of the Constitution of India. At this stage, the petitioner makes a fervent prayer that he may be given liberty to approach the Civil Court where, allegations of duress, black-mail, illegal detention, extortion etc. can be gone into as made in the

present petition, and be adjudicated. The petitioner is given liberty to seek any other remedy which may be available under law to him. In case such course is taken by the petitioner in accordance with law, it would only be fair for this Court to say that nothing said in this judgment would impede the independent judgment of any other forum, in case an action is brought.

Dismissed.”

Learned counsel for the petitioner is not in a position to show any judgment to the contrary for his claim of refund. Accordingly, the claim for refund is rejected on the same grounds.

Learned counsel for the respondents on the other hand pointed out that the complaint filed under Section 138 of Negotiable Act pertaining to the security cheques has been dismissed which is, however, subject matter of the appeal.

Accordingly, the present writ petition is disposed of with liberty to the petitioner to avail his remedy or defend any proceedings in case the private respondent No.3 prefers any further claim against him in accordance with law. However, regarding the original documents, which are in custody of respondent No.3 – the same shall be handed over to the petitioner within a period of one month on his approaching the said institute.

30.11.2015
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(G.S. SANDHAWALIA)
JUDGE