

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 20.05.2015

+ **W.P.(C) 8148/2014 & CM Nos. 18986/2014 & 3884/2015**

DEEPAK KUMAR GUPTA

..... Petitioner

versus

UNIVERSITY OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Kamlesh Kr. Mishra.

For the Respondent : Mr Mohinder J.S. Rupal.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J (ORAL)

1. At the outset the learned counsel for the petitioner sought further time to file a rejoinder. He submitted that it was necessary to file a rejoinder to produce exchange of communications which would indicate that Prof. A.K Singh, Provost Gwyer Hall, was inimical to the petitioner and the decision to refuse re-admission to the hostel was malafide.

2. The petition was listed for the first time on 24.11.2014. On that date, respondent accepted notice and was granted two weeks time to file a counter affidavit; petitioner was granted liberty to file a rejoinder before the next date of hearing which was scheduled on 20.01.2015. This court also directed that status quo be maintained. The respondent filed its counter affidavit on 19.01.2015. On 20.01.2015, the hearing was adjourned at the

request of the petitioner and the petition was directed to be listed on 04.03.2015. On 04.03.2015, the hearing was adjourned to 12.03.2015. On 12.03.2015, the petitioner sought further time to file a rejoinder and the petitioner was listed for today. The petitioner has had sufficient time to file a rejoinder. The petition does not allege any bias or malafides on the part of Prof. A.K. Singh, provost Gwyer Hall and the petitioner cannot be permitted to raise a plea of malafides in the rejoinder. Thus, the reason provided by the petitioner to file a rejoinder is unpersuasive. The petitioner is continuing to reside at the hostel by virtue of the interim order granted on 24.11.2014. In my view the petitioner's request for further time was a deliberate attempt to delay the proceedings and, therefore, I found no reason to grant further time to the petitioner to file a rejoinder.

3. The petitioner's request for further time to file a rejoinder was rejected and the petition was taken up for hearing.

4. The petitioner has filed the present petition, *inter alia*, praying as under:-

- i. Pass an order declaring that the action of respondent to deny the readmission to petitioner is illegal and unconstitutional.
- ii. Pass directions, orders or writs in the nature of mandamus commanding the respondent to grant readmission to the petitioner with all consequential rights and remedies within three days;"

5. The petitioner has been residing in Gwyer Hall, which is stated to be the oldest men's hostel of the University of Delhi, since 01.10.2012. The petitioner was admitted to the Gwyer Hall (hereafter the 'hostel') by virtue of being enrolled as a Research Scholar in the Department of Philosophy,

Faculty of Arts, University of Delhi.

6. The petitioner applied for the re-admission to the hostel by an application dated 02.09.2014. However, the petitioner was not granted re-admission to the hostel and his name did not feature in the re-admission list published on 25.09.2014.

7. Being aggrieved by not being readmitted to the hostel, the petitioner made a representation dated 29.09.2014 for reconsidering his case for being provided the facility of the hostel. The petitioner received a communication dated 27.10.2014, which indicated that there were several complaints against the petitioner. It was alleged that the petitioner had violated Ordinance VI-B of the Ordinances of the University - *“Every candidate shall pursue research in the University or a recognized institution in Delhi for not less than two calendar years after the date of provisional registration.....No candidate shall undertake any employment during resident period of her/his study”*. The petitioner was also informed that his name did not feature in the re-admission list as the petitioner did not fulfil the eligibility criteria for re-admission as mentioned in the “Handbook of Rules and Information” of Gwer Hall (hereafter referred to as the ‘Handbook’). The petitioner was called upon to furnish his explanation by 30.10.2014 and was further informed that on failure to submit explanation within the specified time, the complaint would be forwarded to the Chairman, Board of Research Studies to make inquiries and take corrective measures.

8. The petitioner furnished his explanation by a communication dated 30.10.2014. It was the petitioner’s case that the petitioner could take up employment while pursuing the doctrol programme by virtue of sub para

(viii) of paragraph 11 of Ordinance VI-B - *“The student may be permitted by the Board of Research Studies, on the recommendation of the Supervisor(s), to be absent from Delhi for ordinarily not more than 2 semesters on the ground that it is in the interest of her / his research.”* The petitioner further relied on sub-para (xiii) of paragraph 11 of Ordinance VI-B which indicated that a candidate could undertake employment during the period of his/her study with the permission of a Supervisor. According to the petitioner, the only condition for re-admission of a Ph.D student to the hostel was, that he must submit a progress report from his research supervisor, recommended by concerned Dean/HOD, every six months.

9. The petitioner filed the present petition as he apprehended that he would be removed from the hostel.

10. The respondent University has contested the claim of the petitioner and has asserted that the petitioner does not fulfil the eligibility criteria as specified in the Handbook. The learned counsel for the respondent referred to the application for re-admission submitted by the petitioner on 02.09.2014 and submitted that the petitioner had suppressed material facts as the details of his employment were not disclosed. It was further submitted that declaration supporting the application was also incorrect inasmuch as the petitioner had declared that the petitioner was neither employed nor doing any paid job.

11. I have heard the learned counsel for the parties.

12. It is not disputed that the petitioner took up employment with Laxmibai College (which is one of the college affiliated to the University of

Delhi) as Lecturer w.e.f. 24.07.2013. It is further not disputed that the petitioner continues to be employed with the said college. The Handbook specifically indicates that a student seeking admission or re-admission to the Hostel should not be employed in any college or organization for more than six months. Clause (viii) of the eligibility criteria reads as under:-

“A student seeking admission or re-admission to Gwyer Hall should:

XXX XXX XXX XXX XXX

(viii) not be employ in any college or organization for more than 6 months.”

13. Concededly, this condition is not fulfilled by the petitioner. The learned counsel for the petitioner first contended that this condition is illegal and is liable to be set aside. He then followed up this argument by contending that other students who were employed and did not fulfil this criteria had been granted re-admission to the Hostel.

14. In my view, the aforesaid contentions are without merit. There is no justification to challenge the validity of Clause (viii) of the eligibility criteria. Further no grounds for challenge to the said Clause have been laid in the petition or even orally urged. Insofar as the contention that other students who are employed have been granted admission is concerned, it is well settled that Article 14 of the Constitution of India does not contemplate negative equality. Thus, even if it is assumed – although there is no reason or material to do so – that other students who do not fulfil the eligibility criteria have been admitted to the Hostel, the same would not entitle the petitioner to any relief.

15. In addition to Clause (viii) of the eligibility criteria, the petitioner

also does not comply with some of the other conditions for re-admission as specified on page 8 in the Handbook. The said conditions are quoted below:-

“CONDITIONS FOR RE-ADMISSION

XXXX XXXX XXXX XXXX

Ph.D students must on their own submit to the Hall Office a progress report from their research supervisor, recommended by the concerned Dean/Head of the Department, every six months. This report shall confirm that the resident is actively engaged in research as a full-time student, and that his work is satisfactory. In case the Ph.D student has not regularly submitted these progress reports during the preceding academic year, his re-admission may be cancelled.

XXXX XXXX XXXX XXXX

Residents who have been employed as a college teacher for more than one calendar year (that is, if they have received salary over the summer vacation), shall not be given re-admission.”

16. The petitioner is, clearly, not a full time student engaged in research as he had taken up employment with Laxmibai College. Further, the petitioner had also been employed as a college teacher for more than one calendar year. The respondent has produced a communication dated 10.10.2014 from Laxmibai College confirming that the petitioner was working as Ad hoc Assistant Professor in the Department of Philosophy w.e.f. 24.07.2013 and had earned a total income of ₹3,09,949/- during the year 2013-14. Further, Laxmibai College has by a letter dated 23.12.2014 also confirmed that the petitioner’s salary for the summer vacation of May-July, 2014, was released on 19.11.2014. Thus, indisputably, the petitioner did not fulfil the conditions for re-admission.

17. It is also relevant to note that the ad-interim order dated 24.11.2014 was granted by this court as the petitioner had filed an affidavit that he had not received salary for the summer vacation. Apparently, this affidavit is also misleading. Although it is correct that the petitioner had not received his salary for the summer vacation at the time of submitting his application for re-admission, i.e. on 02.09.2014, the petitioner was entitled to the salary as he had worked for more than one calendar year. It is not disputed that the salary for the said period was, subsequently, released to him. As is apparent from the language of the relevant condition, residents who have been employed as a college teacher for more than one calendar year were disqualified for re-admission. The parenthesis, “*(that is, if they have received salary over the summer vacation)*”, only explained the disqualification condition. Whilst the petitioner affirmed that he had not received the salary for the summer vacation, he did not specifically state that he was not entitled to it. The relevant extract from the affidavit tendered by the petitioner in court on 24.11.2014, to persuade this court to grant interim order is quoted below:

“That at the time of Submission of the application for readmission in Gwyer hall I had duly complied with the readmission condition as contained in page 8 of handbook of rules of Gwyer Hall and submitted a progress report from the Research Supervisor, and had not received salary for summer vacation. True copy of the said progress report is annexed herewith as ANNEXURE A2.”

Clearly, the affirmation that the petitioner complied with the conditions on page 8 of the Handbook was wrong.

18. There is also considerable merit in respondent’s contention that the

petitioner had sought re-admission by suppressing material facts. The application for admission/readmission required the petitioner to provide the details of employment. The relevant extract of the application form is quoted below:-

“The details of employment :

(i) Organisation.....

(ii) Type of Job (iii) Duration”

19. The petitioner had not filled any of the details regarding his employment. It was submitted by the learned counsel for the petitioner that the petitioner had annexed details of his employment alongwith his application. However, there is no material to support this contention. The application does not, on its face, refer to any appendix or any annexure. The learned counsel for the petitioner further attempted to explain the absence of relevant employment information on the application form by contending that the petitioner, being a student, was not versed with the implication of omitting the employment details in the application. It is difficult to accept this contention; the petitioner is not as naive as the learned counsel would want this court to believe. A bare perusal of the representation dated 29.09.2014 submitted by the petitioner indicates that he is well versed with principles of law. The representation is replete with legalese and refers to seven Supreme Court judgements, in addition to referring to a decision rendered by Lord Denning, M.R. I am inclined to accept the respondent's contention that the relevant details were deliberately withheld by the petitioner.

20. In addition, the declaration supporting the application furnished by

the petitioner was also incorrect. Clause 6 of the declaration signed by the petitioner reads as under:-

“6. I declare that I am neither employed nor am I doing any paid job anywhere, full time or part time. If I take up employment, I shall inform the Hall authorities immediately.”

21. Plainly, this declaration made by the petitioner was palpably untrue. It is relevant to note that the Handbook, with respect to the conditions for re-admission as specified on page 8 of the Handbook, expressly provides that *“Suppression of information, or giving wrong information pertaining to any of these eligibility criteria, shall lead to disciplinary or legal action, as may be deemed fit by the Hall administration.”*

22. In view of the aforesaid, the petition is bereft of any merit and is, accordingly, dismissed. Pending applications stand disposed of. The petitioner is further directed to pay costs, quantified at ₹10,000/-, to the University of Delhi.

MAY 20, 2015
RK

VIBHU BAKHRU, J