

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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CWP No.60 of 2005

Decided on : 27.09.2016

Gurkeerat Singh Dhillon

... Petitioner

Versus

Guru Nanak Dev University, Amritsar and others

.. Respondents

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

Present : Mr.Sameer Sachdev, Advocate
for the petitioner.
Mr.K.S.Rekhi, Advocate
for the respondents.

G.S.Sandhawalia, J. (Oral)

The petitioner vide his amended writ petition challenges the order dated 23.11.2004 (Annexure P/13) whereby, the admission of the petitioner in Electronics & Communication Engineering B.Tech. Course with the respondent-University was sought to be cancelled.

Challenge has also been made to the letter dated 27/31.01.2005 (Annexure P-22), whereby demand for deposit of fee Rs.22,790/- + 9600 U.S.Dollars was raised as balance fee.

It is a matter of record that the petitioner has already passed out of the said course, therefore, his first prayer, as such, has become infructuous.

However, since no stay was granted, the petitioner was left

with no option but to deposit Rs.4,44,038/- vide demand draft bearing No.710065, dated 19.03.2005 to save his admission. The refund of which is now sought along with interest in the amended writ petition. The dispute arose on account of fact that the father of the petitioner was working in the respondent-university as a Reader, and was selected as Principal of the Khalsa College of Education, Amritsar on 27.11.2000. He had applied for extra-ordinary leave without pay which was sanctioned by the respondent upto 28.11.2001. The petitioner, in the meantime, did his 10+2 examination, and on account of the fact that there was a provision for the ward of the University teacher/employees to seek admission by paying 40% fees for the full course, in the NRI quota, he took admission in the Electronic & Communication Engineering, B.Tech. course in July, 2001. Approval was given by the Syndicate of the respondent-University on 21.07.2001 regarding admission given to him on a concession as per policy in question. The petitioner's father thereafter, applied for extension of leave for 29.11.2001 to 28.11.2002 which was rejected on 05.11.2001 (Annexure P/3). Due to that reason, his father's post was declared vacant w.e.f. 08.02.2002. However, a decision was taken that the petitioner would be charged 40% fee for the full course under the NRI quota, and the fee for full course be deposited in one installment in the University Account.

The relevant portion of the letter dated 15.02.2002

(Annexure P/4) reads as under:-

“The Vice Chancellor has directed that your son Gurkeerat Singh should be charged 40% fee of NRI quota, for the full course. Therefore, you are requested to deposit fee for full course in one installment in the university Account.”

It is a matter of record that the petitioner had deposited the amount of Rs.2,23,685/-, vide demand draft No.MC 353/02 (07467, 143023016), dated 11.06.2002. However, a show cause notice was issued on 19.09.2002 (Annexure P/6) stating therein that since the father of the petitioner was not an employee of the university, and he was not depositing the 'employee certificate', the petitioner would be charged full fee under NRI quota by the Head of the Department. The petitioner in his reply, referred to the letter dated 15.02.2002 as reproduced above, to rely upon the amount already deposited in pursuance of the same, to submit that he has no dues to pay.

Thereafter, the matter was referred to the Committee by the Syndicate of the University on 17.05.2003, and the Committee reverted the matter back to the Syndicate on the ground that new Committee be constituted and decision be taken by the Syndicate at its own level as the original Syndicate members were not part of the Committee. The Syndicate in its meeting convened on 16.07.2004 and 11.10.2004, did not take any decision on the issue of concession which had been extended to the petitioner and whether he could continue with the same. In the meantime, the petitioner continued to study and

resultantly, provisional Roll Number was issued to him subject to the legal opinion which was being sought which is clear from the letter dated 23.11.2004 (Annexure P/13). Resultantly, the demand letter dated 27/31.01.2005 (Annexure P/22) for depositing fee of Rs.22,790/- + \$ 9600 was raised failing which the name of the petitioner would be struck off, and on account of no stay, the petitioner, as noticed above, deposited the amount of Rs.4,44,038/- vide demand draft dated 19.03.2005. Refund of the same is now subject matter of dispute.

Counsel for the petitioner has thus vehemently argued that once the decision has been taken on 15.02.2002 by the Vice Chancellor that the petitioner should be charged only 40% of the fee under the NRI quota subject to his deposit in one go, the subsequent demand was not tenable and the respondent-University would be bound by the principle of estoppel.

Counsel for the respondents, on the other hand, has argued that once the father of the petitioner was no longer an employee with the respondent, therefore the concession which has been granted to the petitioner, was rightly withdrawn and the petitioner was liable to pay the full fee against the quota for NRI and therefore, no case is made out for refund in such facts and circumstances.

It is submitted that since the matter was referred to the Syndicate and therefore, the reliance placed upon the order dated 15.02.2002 is without any basis. The facts having been crystalized

above, one thing is apparent that only on account of the petitioner's father no longer remaining in service with the respondent-university and as also the post being declared vacant on 08.02.2002, the benefit of the concession which has been granted to petitioner, was withdrawn.

However, it is a matter of record that the Vice Chancellor himself had decided that fee for the full course has to be deposited in one installment. It is not disputed that the father of the petitioner had deposited fee on 11.6.2002 to the tune of Rs.2,23,685/-. Unfortunately, in spite of the said deposit, the University continuously kept on raking up the said issue, and referred the matter to a Committee. As noticed above, even final decision was not taken by the University and even the Syndicate also did not take any final call on 16.07.2004 and 11.10.2004. Resultantly, the demand was made on 21.03.2005.

Faced with the cancellation of the admission and having got no interim relief, the petitioner deposited the balance amount of Rs.4,44,038/- to save his admission. The Vice Chancellor having taken the decision, the University was thus, estopped from raising any additional demand for balance fees. The said decision dated 15.02.2002 has never been varied at any stage, subsequently, by the Syndicate which failed to take a categorical decision on the same. It is not the case of the University that there is any unfair means or misrepresentation on the part of the petitioner vide which he had wrongly got the concession. As noticed, the petitioner got the

concession on the basis of the employment of his father, and who for his professional up-liftment having been appointed Principal of Khalsa College of Education, Amritsar had chosen not to join back with the University. In such circumstances, the Vice Chancellor having taken two decisions by declaring the post of the petitioner's father vacant, had also taken a decision that if the fee is deposited in one installment, the same would suffice at the 40% fee of the NRI quota for the full course.

In such circumstances, thereafter, the demand raised, was not tenable by the University which could have not been contrary to the decision of the Vice Chancellor since the petitioner at that time had altered his position by depositing necessary fee of Rs.2,23,685/- through his father. The principle of estoppel would thus come to the aid of the petitioner and the University would also be bound by the letter dated 15.02.2002.

In such circumstances, this court is of the opinion that subsequent demand of Rs. 4,48,038/- is not justified which was deposited by the petitioner only to save his admission.

In ***Rajeshwar Verma Vs. Maharshi Dayanand University, Rohtak and another, 2016 (1) S.C.T.127***, issue of the cancellation of admission arose on the ground that the certificate issued was found to be fake and whether the respondent-University had checked and verified the documents. Resultantly, it was held that in the absence of concealment or misrepresentation, once the University had permitted

the candidate to appear, it was unwarranted on the part of the University to deny the continuation of course. The relevant portion reads as under:-

*“7. A Division Bench of this Court in **Ajeet Kumar Tripathi Vs. State of Haryana 1998 (4) S.C.T. 73** also held to the same effect that when the admission was cancelled after a long period of study on the ground that the marks obtained was less than 50% in aggregate, it was held, that once there was no fault of the candidate and he had studied for many years, he should be allowed to study in the said course. It was held that in such ambiguous situation, it is not proper to cancel the admission at such a late stage since the clock had moved on.*

8. Reliance can also be placed upon a Division Bench judgment of this Court in **Ashu Singla Vs. Punjabi University, Patiala & another 2004 (2) RSJ 720** wherein also, the students had been declared ineligible in the second year on the principle of promissory estoppel. This Court held that in the absence of any concealment of any documents from the respondents or misrepresentation, the admission was to be regularized. Similar view has also been taken by this Court in **Jaswinder Kaur Vs. State of Punjab & others 2013 (3) PLR 128** wherein it was held that once the University had permitted the candidate to appear in the examination of the final year. It was unwarranted on the part of the University to issue DMC on the ground that the petitioner was ineligible. In **Shri Guru Govind Singh Khalsa College & others Vs. Panajb University, Chandigarh & another 2014 (3) RSJ 499**, similar relief was granted by holding that in the absence of any fraud or misrepresentation on the part of the students and on the failure of the College to inform them about their ineligibility, the admission was to be regularized.”

Accordingly, the present writ petition is allowed, and the respondent-university shall refund the said amount i.e. Rs. 4,48,038/- to

the petitioner along with interest at the rate of 6% from 21.03.2005 within a period of two months from the date of receipt of a certified copy of the order.

It is made clear that if the amount is not paid to the petitioner within the prescribed period, the interest will go up to 8% till amount is not paid.

[G.S.Sandhawalia]
Judge

27.09.2016
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No