

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

222

CWP-13508-2016

Decided on : 15.09.2016

Abhishek Kumar

... Petitioner

Versus

State of Punjab and others

.. Respondents

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

Present : Mr.S.P.Soi, Advocate
for the petitioner.

Mr.S.S.Chandumajra, Addl.AG, Punjab.

Mr.D.K.Sharma, Advocate for
Ms.Kiran Bala Jain, Advocate
for respondent No.2.

Mr.Harsimran Singh Sethi, Advocate
for respondent No.3.

G.S.Sandhawalia, J. (Oral)

The petitioner seeks permission to take his examination of 5th & 6th semesters and for grant of compensation for wasting one year by not permitting him to take the examinations.

It is the case of the petitioner that he got himself admitted in B.Tech (Mechanical Engineering) for the Session 2012-2016 in the stream of Mechanical Engineering and he passed 1st, 2nd, 3rd and 4th semesters from the college-respondent No.2. He had deposited the fee of Rs.23,764/- on 22.10.2014 (Annexure P/1).

The allegations have been made that one Himanshu Kumar Dubey was got admitted by the petitioner in the college of respondent

No.2 and on account of his ineligibility for not passing English subject in matric, his admission has been rejected by the University. The said student complained to the petitioner that he was responsible for that and the petitioner filed a complaint in this regard to the Chairman of respondent No.2.

On account of such complaints, the examination form of the petitioner was cancelled two days prior to the issuance of admit card for 5th semester on the plea that the petitioner had to deposit the fee of 6th semester. In spite of the fact that the petitioner had also deposited the fee of 5th semester, he was not allowed to sit in the said examination. On 30.10.2014, the petitioner had made a complaint to the Vice Chancellor of the Punjab Technical University-respondent No.3 as he was not permitted to take his examination of 5th semester. The management always kept putting off the matter on one pretext or the other. He went to the office of the respondent No.2 almost every month in the year 2015. In the first week of January, 2016, he was told by the management that they will not allow him to take the examination and he may do whatever he likes. Resultantly, he had filed a representation to the management but finding no response from their end, he has approached this Court, accordingly.

The written statement has been filed on behalf of respondent No.2 wherein it is categorically denied that the petitioner has passed any semesters. It has been averred that in first semester, he appeared for eight times but could not clear. Reference has been made

to Annexure R-2/1. In second semester, he appeared for seven times, but could not clear. Reference has been made to Annexure R-2/2. In third semester, he appeared six times, but could not clear. Reference has been made to Annexure R-2/3. He appeared in fourth semester for five times but did not clear. Reference has been made to Annexure P-2/4. It has further been averred that the petitioner was required to deposit a sum of Rs.48,236/- but he has deposited only Rs.23764/- leaving the balance of Rs.24,472/-. The allegations regarding adjustment of fees have been replied on the ground that they are irrelevant qua the petitioner so, need not to be replied and hence have been denied. It has further been pleaded that the petitioner was allowed to sit in the 5th semester but he himself did not appear and remained absent and he has not qualified even a single semester in the four years.

Respondent No.3 in its reply, has taken a plea that respondent-college was to issue admit card and the reasons for not allowing the petitioner to appear in the 5th semester has been explained by the said respondent and comments of the said college had been sought for. In response, the respondent No.2-college had submitted that the petitioner had failed to deposit the fees for the 5th semester and therefore, Roll number was not issued to him and he was not allowed to appear in the examination. It has further been submitted that deposit of fees is a matter between the petitioner and the college and respondent No.3 had no role to play in it.

From the above, it would be clear that wrong averments

have been made mentioning that petitioner has passed all semesters. A categorical denial has been taken while taking a stand in its reply by respondent-college that the petitioner has not even passed a single semester in the four years. The petitioner has spent four years in the said course without even passing one semester. Respondent-college has taken a plea that there is a balance due for the 5th semester.

Counsel for the petitioner has argued that fee was to be adjusted on account of admission given to some other student namely Himanshu Kumar Dubey. Such questions of adjusting of fee are disputed question of facts which cannot be adjudicated in the writ petition. The factum of adjustment have been denied in the reply by the college.

In such circumstances, no further direction can be issued for permitting him to take his examination of 5th and 6th semester. It is always open for the petitioner to deposit the balance fee and apply for the appearing in the said semesters afresh. In case of the deposit of the balance fee, the respondent-college shall process the case of the petitioner as per the rules at the earliest.

In view of the above, the writ petition is disposed of.

[G.S.Sandhawalia]
Judge

15.09.2016

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