

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.20001 of 2014

Reserved on : 19.12.2015.

Date of decision: 20.1.2016

Karanvir Singh

...Petitioner

Versus

The Principal, Continental Institute of Engineering & Technology and others

...Respondents

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

Present: Mr. Sahil Soi, Advocate for the petitioner.

Mr. Arvind Bansal, Advocate for respondent no.1.

G.S.SANDHAWALIA, J.

The petitioner seeks return of the original certificates and for payment of refund of fee amounting to ₹ 45,200/- and for compensation of ₹ 2 lacs and other misc. expenses + ₹ 87,200/- incurred on books, travelling etc. apart from another sum of ₹ 4 lacs due to lapse and negligence on the part of the respondents. It is the case of the petitioner that he has lost one precious academic year and therefore, he is entitled for the said amount.

The pleaded case of the petitioner is that he was admitted in B.Tech. in session 2013-14 in the stream of Civil Engineering in the month of August, 2013 in the respondent no.1-college which is affiliated to respondents no.2 and 3-university. He deposited the above said fee in two installments on 16.8.2013 and 22.8.2013 and it was shown that he was a student of Civil Engineering branch. It is his case that for the lapse on the part of respondent no.1-college he was registered with respondent-University in Electronics and Communication Engineering (ECE) in which he had never taken admission. Respondent no.1-college wrote a letter on

17.9.2013 realising its mistake and followed it up on 27.9.2013 (Annexure P/3) but the university did not act on the same. The petitioner was allowed to attend the classes of B.Tech. in Civil Engineering and thereafter the respondent no.1-college gave him no objection certificate dated 1.10.2013 (Annexure P/4) to approach the University for redressal of his grievance. The petitioner visited the University on 12.11.2013 and was told that correction in the portal had not been made and he could appear either for examination of ECE or to take admission in next year in Civil Engineering. Accordingly, the petitioner had represented to Dr. Rajnish Arora, on 15.11.2013(Annexure P/5). A legal notice was also served on 16.11.2013 (Annexure P/6) but no action was taken. Since the examinations were to start w.e.f. 22.11.2013 and correction was not made he was not issued roll number. Thus he lost one year and was entitled to return of the amount of fee along with compensation. The respondent no.1-college refused to return his original certificates and to refund fee. He had filed a complaint before the District Consumer Forum, Fatehgarh Sahib which was dismissed for want of jurisdiction and the appeal was also dismissed on 22.7.2014 on the same account. Resultantly the present writ petition was filed.

In the written statement filed on behalf of respondent no.1, it is admitted that the admission was taken in B.Tech. in Civil Engineering but the portal site maintained by the University had shown the admission in the Electronics and Communication Engineering. The error was brought to the notice of office of respondent-university on 17.9.2013 for transferring the admission which was followed up by letter dated 27.9.2013 (Annexure P/3). The correction was to be done by the office of University which was delayed and the correction was only allowed on 28.11.2013. The petitioner had himself not appeared in the examination and certificates had remained

in the safe custody of respondent no.1-college and the petitioner has never visited the office of respondent no.1-college to collect the same even though notice had been put on the notice board.

Respondents no.2 and 3-university on the other hand took the plea that the name of the petitioner was shown at serial no.5 in the Electronics and Communication Engineering (lateral entry) course as per information down loaded from the University Website as on 10.9.2013 (Annexure R-2/1). The University has not had not shown his name in the different branch and the branch was duly changed on 28.11.2013 and therefore, it was wrong that the student was admitted in the Civil Engineering Course. It was respondent no.1-college who had wrongly registered the petitioner and grievance was also with respondent no.1-College regarding refund of fee. The original certificate had to be returned by respondent no.1-college.

In pursuance of interim direction made by this Court, respondent no.1-college had refunded a sum of ₹ 45,200/- on account of fee by way of draft. The case was fixed for further consideration as to whether the petitioner is entitled over and above the amount of fee.

After perusing the record, this Court is of the opinion that both respondent no.1-college and respondents no.2 and 3-University are in the wrong and have spoiled a precious academic year of the petitioner. It is not disputed that the petitioner had taken admission in the B.Tech. (Civil Engineering) Course which is the admitted case of respondent no.1-college also. The fee receipt also shows the same. Respondent no.1-college has tried to pass its responsibility to the University that the University had made the mistake. The University has specifically clarified that as per Annexure R-2/1 in the list of student of Electronics and Communication Engineering stream for the sessions 2013-14 the name of the petitioner figured at serial

no.5.The said list had been duly forwarded by respondent no.1-college itself on 10.9.2013 regarding the admissions made in August, 2013. Respondent no.1-college apparently realised its mistake and addressed a communication dated 17.9.2013 which finds mention in its communication dated 27.9.2013 wherein request had been made to the University that there were seats available in the Civil Engineering stream and registration of the student was also made prior to 15.8.2013 before the cut off date and he could be admitted in the said stream.

However, respondent no.1-college has kept back the letter dated 17.9.2013 which is a material correspondence which they had addressed to the University at the first instance. The document which would have vital bearing on the decision of the case having been kept back with them, an adverse inference can necessarily be drawn that it is not in the interest of the college to produce the same as it would show the mistake on its part. Thus a finding of negligence is to be recorded on the part of respondent no.1-college. However, respondents no.2 and 3-University is equally at fault on account of that communication from respondent no.1-college was received on 17.9.2013 which was followed up by letter dated 29.7.2013 for change of stream of the petitioner. The petitioner had himself approached the respondents no.2 and 3-University after getting the no objection certificate from respondent no.1-college also for change of his stream as per his original admission but no action was taken. It was only on 28.11.2013 that the University had acted upon it by which time the exams had already started on 23.11.2013 and the petitioner having been frustrated from the attitude of the authorities, had given up hope and therefore never appeared in the examination and lost a precious academic year. Resultantly, negligence on the part of the University also stands equally established.

In such circumstances, this Court is of the opinion that though the amount of fee has been refunded yet the petitioner is definitely entitled for compensation for loss of one precious academic year which this Court assesses at ₹ 1,00,000/- (₹ one lac) which will be shared equally by respondent no.1-college and the respondent no.2 & 3-University along with costs of ₹ 10,000/- each. The petitioner will also be entitled for return of his original certificates which as per the stand of respondent no.1-college he has not collected the same. The amount be paid along with return of certificates within a period of two months from the receipt of a certified copy of this order failing which the same shall be liable to be paid along with interest at the rate of 10% per annum from the date of decision.

Accordingly, the present writ petition is allowed of with the aforesaid directions.

January 20, 2016
Pka

(G.S.SANDHAWALIA)
Judge