

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

**CWP No.19967 of 2015
Decided on: 28.07.2016**

Kuldeep Kumar

... Petitioner

Versus

Union of India and others

... Respondents

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

Present : Mr. Rajender Singh Duggal, Advocate
for the petitioner.

Mr. Vipul Aggarwal, Advocate
for respondent No.1.

Mr. S.K. Sharma, Advocate
for respondent No.2.

Mr. Vivek Chauhan, Advocate
for respondent No.3.

G.S. Sandhawalia, J.

The petitioner seeks the release of scholarship as per the conditions of the All India Council for Technical Education (AICTE) under the GATE quota for M.Tech. (Computer Science & Engineering) for the Session 2008-2010, alongwith the interest till the date of payment.

It is the pleaded case of the petitioner that he had passed his B.Tech (Computer Science & Engineering) examination in the year 2007. Thereafter, he participated in the Graduate Aptitude Test in Engineering (GATE) in the year 2007 and scored a rank of 219 with all India Rank of 6186. He belongs to Scheduled Caste Category and had taken admission in M.Tech with the respondent No.3-University in the year 2008 and deposited the full admission fees and passed out in the year 2010. He

was entitled to receive his scholarship @ Rs.8,000/- per month for those 24 months, as per the letter dated 29.07.2015 (Annexure P-6) under the Right to Information Act, 2005. It is the case of the petitioner that his father is a low paid employee in the Haryana Government and had curtailed his family's necessities to meet the expenses of study of his son. The requests for the release of the same were denied on the ground that the respondent No.2 (AICTE) was not releasing his scholarship for the session 2008-2010. Repeated representations were made and the University also made a request to respondent No.2 on 16.05.2013 (Annexure P-8) to release the scholarship of the petitioner. A legal notice was also served upon the respondents on 18.03.2015 (Annexure P-9) forwarded with a reminder on 13.05.2015, but of no avail. The University had sent a reply that the scholarship would be released when the respondent No.2 would give the scholarship. Vide letter dated 07.04.2015 (Annexure P-10) respondent No.2 replied to the legal notice taking the plea that there was no approval to the respondent-University for the academic session 2008-2010 to run the course of M.Tech (CSE).

The Vice-Chancellor of the University had written to the respondent No.2 to give accord approval in its name instead of in the name of Post Graduate Regional Centre at Hisar, vide letter dated 15.05.2009 (Annexure P-12). It was on this account that the petitioner had been deprived the scholarship, since there was a transfer of the course from Kurukshetra University to the respondent-University, in view of the Section 35 of the Act pertaining to the respondentNo.3-University.

Respondent No.2 in its reply admitted that the scholarship was payable, but the University was not having ACITE approval to the run the course of M.Tech (CSE) during the academic year 2008-2009 and, therefore, the scholarship could not be released. The approval was not granted for the academic session 2008-2009 in respect of the M.Tech Course.

The respondent No.3-University took the plea that the approval had already been granted to the said courses in the name of the Post Graduate Regional Centre, Hisar of the Kurukshetra University for conducting the aforesaid Post Graduate programmes vide letter dated 22.09.1994 (Annexure R-3/1). The Regional Centre at Hisar was upgraded to the fully fledged University now known as Guru Jambheshwar University of Science & Technology, Hisar by an Act of the legislature of the State of Haryana w.e.f. 20.10.1995. The properties of the Kurukshetra University were vested in the respondent-university. The correspondence had been done, since the year 2005 and references were made to Annexure R-3/2 colly. from the year 2005 onwards till the year 2009. Approval had been granted from 02.05.2008 for the period 2008-2010 qua other courses. The respondent No.2 had never informed the University that it was a necessity a to seek approval of existing programme M.Tech (CSE and M.Tech (ESE) Course. It was further averred that the University had made efforts for getting approval which was stopped by the AICTE without any intimation to the University after the year 2006-2007. Resultantly, the plea taken was that the scholarship

would only be paid when it was released by the respondent No.2.

From the above pleadings it would be apparent that dispute is between the University and respondent No.2-AICTE. It is not disputed that the petitioner has been granted the degree of M.Tech. and the provisional degree Annexure P-5 has been attached. It is not the case of the respondent No.2 that the respondent No.3-University is not approved as such and is not entitled to give the degrees. It did not grant the necessary sanction for the year in question 2008-2010. The provision of the Act came into force w.e.f. 20.10.1995 and by virtue of the statutory fiat under Section 35, the courses being run with the Regional Centre at Hisar were taken over by the respondent-University. The relevant provision reads as under:-

*“35. (1) All properties, movable and immovable and all the interests of whatsoever nature and kind therein, vested in the Kurukshetra University Post Graduate Regional Centre, Hisar and the courses run thereunder and the posts created, filled before the commencement of this Act shall vest in the University.
(2) All debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done in respect of Post Graduate Regional Centre, Hisar shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the University.”*

It is not the case of the respondent No.2 that the Regional Centre was not recognized by it earlier. It is the case of the University that the Centre was running since 1994-1995 with the AICTE approval

for Computer Science Engineering, which would be clear from the letter dated 18.03.2005 (Annexure R-3/2), which was addressed to the respondent No.2 whereby the said course was sought to be included in the list of institutions offering M.Tech (Computer Science & Engineering) in the prospectus of GATE. Thereafter, communication dated 20.07.2005, 26.06.2006, 07.09.2006, 13.10.2006, 06.08.2007, 03.01.2009 (Annexure R-3/2 colly.), 30.11.2006 (Annexure R-3/3), and 20.12.2006 (Annexure R-3/4) were addressed by the respondent-University for the necessary benefits, but of no avail.

Vide letter dated 14.07.2009 (Annexure P-11) extension was given for the course in question for academic year 2009-2010 and similarly vide communication dated 05.10.2009 (Annexure R-3/6) for the year 2009-2010 approval was given for the scholarship for the stream in question. It is, thus, apparent that if there was any extension which was given for the year 2009-10, it had to be in continuance for the earlier approval which was granted for the Regional Centre of the Kurukshetra University at Hisar.

Resultantly, it is apparent that on account of inaction of the respondent No.2 there has been non-grant of the scholarship without any valid basis. The respondent-University had only taken over the charge in control from the earlier Regional Centre which was with the Kurukshetra University and, therefore, is entitled for the same benefits, which was granted for the earlier years.

Resultantly, the denial on account of the fact that there was

no formal approval for the year in question is without any basis. Accordingly, the writ petition is allowed. Direction is issued to respondent No.2 to release the necessary scholarship to the respondent No.3 for the session 2008-2010 within a period of 2 months from the receipt of the certified copy of this order, who shall further release it to the petitioner within a period of one month, thereafter.

It to be noticed that for a period of 6 years, since the petitioner has passed out from the said institute, he has been denied his legitimate dues without any reasonable cause and respondent No.2 has kept the said amount. Accordingly, the petitioner is entitled for the interest on the delayed payment @ 8% per annum from 01.01.2009 till the date of payment. In case, the payment is not made within the abovesaid period, the interest element will go up to 10% till the date of actual recovery.

With the abovesaid observations, the writ petition stands allowed.

JULY 28, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No