

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

LPA No.1536 of 2015 (O & M)

Date of decision: 30.03.2016.

Dharmendra Gupta

....Petitioner.

Vs.

State of Haryana and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE S.S.SARON  
HON'BLE MR. JUSTICE GURMIT RAM

Present: Petitioner in person.

Mr. Amar Vivek, Addl. AG, Haryana  
for respondent No.1.

Mr. Brijeshwar Kaushik, Advocate  
for respondents No.2 and 3.

None for respondent No.4.

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S.S.SARON,J.

The LPA has been filed by Dharmendra Gupta (appellant) against the order dated 10.08.2015 passed by the learned Single Judge in CWP No.7949 of 2015.

The appellant filed a petition against the State of Haryana through Secretary Education Civil Secretariat, Haryana, Chandigarh; Maharishi Markandeshwar University, Mullana and M.M. Engineering College, Mullana (respondents No.1 to 3). He prayed for allowing him to attend the classes of Bachelor of Technology (Electronics and Communication Engineer, 8<sup>th</sup> Semester); besides, for

issuing direction for arranging special classes after 20.09.2014 in a proper credit based of University i.e. Internal Assignment Practical viva. A further prayer was made for providing special assistance for making assignment internal viva project assignment practical viva. It was further prayed that special exam for the 7<sup>th</sup> Semester regular exam plus 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 5<sup>th</sup> Semester in the month of December (sic. - is to) be conducted for which the petitioner did not get a chance. A further direction was sought for strictly following the University Grants Commission norms in his case for suspension as well as expulsion in the near future. A further prayer was made which this court may deem fit and proper.

The petitioner, it is stated, appeared in the All India Engineering Entrance Examination in 2011. He got admission in M.M. Engineering College, Mullana (respondent No. 3) under OBC and Sports Quota. He is regularly studying in the said college by getting scholarship from the Welfare Department of the Bihar Government.

The petitioner claims that he belongs to extremely backward classes of Bihar. He paid Rs.1,80,000/- as fee and Rs.45,000/- as hostel fee in first year. He also paid Rs.1,10,000/- and Rs.48,000/- as hostel fee for the second year, i.e. 3<sup>rd</sup> and 4<sup>th</sup> Semester. For the third year, the total

fee is Rs.1,14,600/-. Out of the said amount, he has paid Rs.24,000/- to the respondent-University. The petitioner could not deposit Rs.90,000/-. According to him, scholarship to the tune of Rs.1,75,000/- was sanctioned by the Government of Bihar. However, the same was not released due to implementation of the code of conduct, which came into force during the Parliament Elections of 2014. He undertook that the said amount would be deposited with the respondent-University the moment it was released. He represented to the Principal as well as Vice-Chancellor of the University to allow him to attend classes on moral ground because his family condition was not good and he was unable to pay the fee.

The petitioner again on 10.11.2014 approached with a reminder by way of an application dated 20.10.2014. The Registrar of respondent No. 2-University vide letter dated 13.11.2014 (Annexure P3) demanded a sum of Rs.2,08,810/- on account of fee for the years 2013-14 and 2014-15. The petitioner had not deposited the outstanding fee despite issuance of notice on the notice board of the college. His representation dated 20.10.2014 and 10.11.2014 had been considered and it was decided that the appellant should deposit the outstanding fees of the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Semesters immediately. The appellant, in his

response to the letter dated 13.11.2014 (Annexure P3), vide letter dated 23.12.2014 (Annexure P4) raised several queries and from the tenor of the response, he expressed his anguish in the matter, besides, stating it to be arbitrary, illegal and unjust. He asked for response to his questions. In the end, he made it clear to kindly consider his response as his career had been destroyed.

The appellant earlier also filed a writ petition in this Court, i.e. CWP No. 9908 of 2014, which was decided on 12.11.2014 (Annexure R2). The prayer in the said petition was to allow him to take the 6<sup>th</sup> Semester examination in B.Tech. as well as supplementary examination. Learned counsel for the respondents in the said petition stated that during the pendency of the petition, the petitioner (now appellant) had been granted permission, which was originally denied on account of the fact that the tuition fee had not been paid by him within time. The order allowing the petitioner to take the examination, it was observed, answered the relief which he had sought for. An interim that order was passed it was held ought to hold good even then. Accordingly, the writ petition was disposed of. According to the petitioner (now appellant), after disposal of the said petition, he could not understand as to what was going and what was he to do.

Another writ petition, i.e. CWP No. 2681 of 2014, was filed by the petitioner, which was disposed of on 16.09.2014. In the said petition, the petitioner made a challenge to an order of his suspension from the College for alleged mis-behaviour. This Court while issuing notice secured an undertaking from the student as well as his parents that he would not interact with the girl from whom there was a complaint. He was permitted to attend the classes on such an undertaking. The case was adjourned from time to time to ensure that he kept good conduct. Learned counsel for the respondents then stated that there had been no incident of misbehaviour and the petitioner (now appellant) had not come under any adverse observations. In the circumstances, the order already passed suspending him stood revoked and the petitioner (now appellant) was asked to renew his undertaking with the college till he passes out the course by giving a letter of good conduct with the Principal within first week of every month. The petition was disposed of. In view of the said undertaking, this Court vide order dated 21.05.2014 had permitted the petitioner to sit in the examination. The result of the petitioner has however, not been declared.

The position in fact is that the respondents No.2 and 3 are not permitting the appellant to continue his study as

he has not paid the necessary fee which he is liable to pay for the courses that he is doing. According to the appellant, his scholarship grant has not been released by the Bihar Government which according to him is to grant the scholarship.

Written statement has been filed by respondents No.2 and 3. It is submitted that the petitioner (now appellant) earlier filed CWP No.9908 of 2014 with a similar prayer as he was not allowed to sit in the 6<sup>th</sup> Semester examination of B.Tech. (Electronics and Communication Engineering) because of non-payment of fee. The said petition was heard on 21.5.2014 and directions were issued to permit the petitioner (now appellant) to sit in the said examination which was subject to final decision in the writ petition. It was directed that the result of the petitioner (now appellant) be not declared till the decision of the said petition. It is submitted that the said petition came up for final hearing on 12.11.2014 and was disposed of with a direction that the result be declared after submission of fees. The petitioner nor any other source, it is submitted, has deposited the fee of Rs.2,08,810/- as on 29.05.2015. Therefore, the order dated 12.11.2014 passed by this Court, it is submitted, still holds good. Until and unless the fee is not deposited the status of the petitioner is not available

regarding last examination and he cannot be allowed to sit in the next Semester. The fact of the earlier writ petition being filed, it is stated, has been wrongly and illegally concealed by the petitioner (now appellants).

In the circumstances, the appellants are not being allowed to continue his B.Tech. (Electronics and Communication Engineering) Course for want of payment of fee.

The learned Single Judge vide his impugned order held that the petitioner (now appellants) had not deposited the due fee payable by him. In terms of interim order dated 21.5.2014, the petitioner was permitted to sit in the examination. However, it was directed that the result be not declared till the decision of the writ petition. The writ petition was disposed of on 12.11.2014 (Annexure R-2) by confirming the said order dated 21.5.2014. It was also observed that the petitioner (now appellants) had impleaded the State of Bihar through its Secretary Education, which had been proceeded against ex parte. However, nothing concrete had been shown by the petitioner (now appellants) as to what was the quantum of the scholarship which was alleged to have been sanctioned in his favour and by what time the same was liable to be paid. In such circumstances, in the absence of the fee not being paid, it was held that the

petitioner's prayer for permitting him to attend further classes and for arranging special classes could not be accepted. It was further held that nothing could be shown as to whether the petitioner (now appellant) had some right to higher education and that the State is to provide for the same or that the private institute was bound to grant the benefit *de hors* of any payment. In the circumstances, it was held that no relief could be granted to the petitioner and his writ petition was accordingly dismissed.

In the Letters Patent Appeal filed by the appellant, the appellant at the time of motion hearing referred to letter dated 20.09.2014 (Annexure P-5.3) addressed by the District Collector Office, Patna (District Welfare Branch) to Ashok Kumar Gupta, father of the appellant, regarding backward Class Scholarship for the financial year 2012-13. The said letter mentions the allotment of scholarship up to I.D. No. 67696, had been sent. "Remaining students sanctioned allotment had been demanded". (sic.). When the allotment could come further action would be taken.

In view of the said letter, this Court vide order dated 20.10.2015 impleaded the District Welfare Officer, Patna, Office of the Deputy Commissioner, Patna (District Welfare Branch) as respondent No.4 to the present appeal.

Notice of motion was issued to the respondents

including respondent No.4 for 15.12.2015.

According to office report, the previous notice issued to respondent No.4 for 15.12.2015 had been received back served and the service was complete. However, no one has appeared on behalf of respondent No.4.

The primary grievance of the appellant now is that his scholarship that is due to him has not been released by the Bihar Government.

As regards the release of scholarship by the Bihar Government it is for the said Government to respond. However, despite notice none has appeared. In fact a careful perusal of the writ petition shows that for the claim for grant of scholarship from the Bihar Government, no cause of action has accrued in favour of the appellant in the territorial jurisdiction of this Court. At the most the appellant may have a right of action, but not a cause of action. Besides, as held by the learned Single Judge, the appellant has not shown that he has some right to higher education and the State is to provide for the same. Even the letter dated 20.9.2014 (Annexure P-5.3) which is stated to be addressed to the father of the appellant is unclear and quite vague. It probably appears that scholarship up to certain I.D. number had been sent and the remaining would be sent when sanctioned. Besides, when the turn for

allotment of scholarship would come, further action would be taken.

In the circumstances, it would be just and expedient that the appellant approaches the High Court at Patna as this Court does not have the territorial jurisdiction to issue a writ. Besides, no material has been shown by the appellant for the entitlement of scholarship. The learned Single Judge has rightly held that the petitioner (now appellant) could not show that he had some right to higher education and that the State was to provide for the same or that the private institute was bound to grant the benefit *de hors* of any payment.

In the circumstances, there is no merit in the appeal and the same is accordingly dismissed.

(S.S. SARON)  
JUDGE

(GURMIT RAM)  
JUDGE

30.03.2016  
A.Kaundal/amit