

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 268 of 2016

Akash Kesharwani S/o Shri Jawahar Lal Kesharwani, Aged About 24 Years R/o Ward No. 2, Sukulpara, Village Kharoud, Tahsil Pamgarh, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Technical Education, Mahanadi Bhawan, Mantralaya, P.S. Rakhi, Tahsil Aarang, Naya Raipur, District Raipur Chhattisgarh
2. Director/ Commissioner Of Technical Education, Directorate Of Technical Education Govt. Girls Polytechnic Premises, Bairan Bazar Raipur, Chhattisgarh
3. Principal, J.K. Institute Of Engineering, Near Gatora Railway Station, Bilaspur Chhattisgarh

---- Respondents

Shri CJK Rao, counsel for the petitioner/s.
Shri Ashutosh Pandey, Panel Lawyer for the State.
Shri Kshitij Sharma, counsel for respondent No.3.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/05/2017

The petitioner has prayed for a direction to the respondent to refund the entire tuition fee paid by the petitioner with interest in the matter of admission to the Engineering course in the institution of 3rd respondent.

2. Learned counsel for the petitioner submits that as the parents of the petitioner were holding green card, in view of the decision of this Court in the case of *State of Chhattisgarh v. Keshav Prasad and others* passed in W.A.No.1011/12 decided on 04/04/2014, the petitioner is not liable to pay tuition fee. He submits that circular of the year 1989 relating to exemption from payment of tuition fee is applicable in the case of the petitioner also.

3. On the other hand, learned State counsel submits that earlier, the policy has been withdrawn.

4. Learned counsel appearing for respondent No.3, relying upon decision of the Supreme Court in the case of **Principal, Madhav Institute of Technology and Science v. Rajendra Singh Yadav and ors, (2000) 6 SCC 608**, submits that the policy of the Government will not apply in the case of private unaided institutions and unless the Government comes out with a policy to reimburse to the private institutions, the petitioner cannot claim exemption from payment of tuition fee from the private unaided institution.

5. Having considered learned counsel for the parties, even for the sake of arguments, if it were to be held that the petitioner is entitled to certain special treatment on the ground that petitioner's parents were holder of green card, it cannot be held against private unaided institution, in view of the judgment of the Supreme Court wherein dealing with similar situation, it has been held -

“8. In our view, there can be no difficulty in granting exemption to the aided courses in private Colleges/Institutes. But there will be difficulty in extending exemption to unaided courses in private Colleges/Institutes. The reason is obvious. If Government is not to meet the teaching expenses in part- time courses and if the College is not to collect the tuition fee, the College will have to bear the financial burden without the corresponding right to collect fee from the students to meet its legitimate expenses for these part-time courses. There is also no material to show that before such an administrative order was issued the private colleges or institutes agreed to bear the expenditure themselves even if grant-in-aid was not extended to these part-time courses. The Government, in our view, was therefore justified in making the clarification as aforesaid in its counter affidavit and it appears to be quite a reasonable stand taken by them.”

6. In view of above, no relief can be granted to the petitioner as against respondent No.3. The petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge