

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 615 of 2018

- Dirghesh Pratap Singh, s/o Shri Alakh Ram Aged About 23 Years
Occupation Student, R/o Village Umashwarpur, Police Station and Tahsil
Premnagar, Civil And Revenue District Surajpur Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Secretary Department Of Technical
Education, Mahanadi Bhawan Capital Complex, Mantralaya Naya Raipur
District Raipur Chhattisgarh
2. Chhattisgarh Swami Vivekanand Technical University , Bhilai
Chhattisgarh, Through Its Vice Chancellor , Chhattisgarh Swami
Vivekanand Technical University Bhilai, District Durg Chhattisgarh
3. Registrar Chhattisgarh, Swami Vivekanand Technical University , Bhilai
District Durg Chhattisgarh

---- Respondents

For Appellant	: Shri RV Rajwade, Advocate
For respective Respondents	: Shri AS Kachhawaha, Additional Advocate General and Shri Rajeev Shrivastava, counsel

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

13.11.2018

1. Heard learned counsel for the parties.
2. IA- 1 of 2018, application for condonation of delay in filing the writ
appeal is allowed for the reasons mentioned in the application and 57
days' delay is hereby condoned.
3. Writ application of the appellant was dismissed by the learned
Single Judge vide order dated 28.03.2018.

4. In the writ application, the appellant sought direction upon the respondent- University to grant him 0.01 additional mark in Bachelor of Engineering (Elect & Electronics), relying on the so called judgment of **State of UP and another Vs Pawan Kumar Tiwari and others** reported in (2005) 2 SCC 10.

5. The entitlement of the appellant flows from Ordinance 14 of the University which has been reproduced in the order of learned Single Judge as Rule 11.1 and 11.3.

6. Rule 11.1 of Ordinance 14 envisages award of five marks in favour of a candidate to help him pass in examination provided the candidate had failed in maximum of two theory, or one theory and one practical or two practical papers.

7. Rule 11.3 of Ordinance 14 also envisages award of one grace mark to a candidate if he is missing the distinction or a first division by one mark. This discretion has been conferred upon the Vice-chancellor but the Ordinance is categorical that the award of one grace mark in terms of Rule 11.3 cannot be clubbed with Rule 11.1, meaning thereby that if a candidate had been awarded five grace marks under Rule 11.1 of the Ordinance, he cannot further claim as a matter of right to be granted one additional grace mark to earn his distinction or a first division.

8. The object of the Ordinance is to maintain certain standards in education and to help the students, who are on the fringe but when the Ordinance does not provide clubbing of the two discretionary powers and

are to operate in two different situations, then a candidate cannot claim benefit of two independent provisions to have his way in earning a degree.

9. In view of the above, the dismissal of the writ application by the learned Single Judge cannot be said to be an erroneous decision.

10. The appeal has no merit. Accordingly, it is dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

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