

\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of Decision: 05.12.2019

+

W.P.(C) 13567/2018 & CM No.38650/2019

DAAMAN KUKKAR

..... Petitioner

Through : Mr. Rahul Sharma and Mr. Jitender,
Advs.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through : Mr. Anurag Ahluwalia, CGSC for R-1.
Mr. Rudra Dutta, Adv. for R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

JUSTICE RAJIV SHAKDHER (ORAL):

1. The following substantive prayers have been made in the writ petition:

“(a) a writ of mandamus or any other appropriate writ, direction or order directing Respondents to take action against the four students in accordance with the disciplinary rules of the Institute and the guidelines formulated by the Ministry of HRD against ragging in Educational Institutions;

(b) a writ of mandamus directing Respondents to ensure that the Petitioner is allowed to attend classes for the current Trimester (fifth trimester) at another Institute/College to fulfill attendance requirements and further the Respondents be directed to allow the Petitioner to write his examinations without fear or threat to his life and limb or to study in another institute of Equal Footing for the rest of the course as a non-degree student.”

2. Mr. Rahul Sharma, who appears on behalf of the petitioner, says that he does not wish to press prayer clause (a) any longer as, concededly, an

inquiry was held by the respondent no.2 institute in which the four students against whom the petitioner had levelled allegations have been exonerated.

3. Mr. Sharma also concedes that the petitioner had not participated in the inquiry, though, for the reason that he was apprehensive about his security.

4. On the other hand, Mr. Dutta, who appears on behalf of the respondent no.2 institute, says that every attempt was made to allay fear and/or apprehension that the petitioner had about his security by interacting not only with him but also his parents and relatives.

4.1 For this purpose, learned counsel has drawn my attention to an e-mail dated 18.09.2018 which is appended on page 211 of the paper book and is marked as Annexure R-2/2.

5. Given these circumstances, while noting that nothing survives in prayer clause (a), quite frankly, prayer clause (b) has also worked itself out.

5.1 The reason why I say so, is that, admittedly, during the pendency of the writ petition, the petitioner has obtained admission in another college going by the name Aryan Business School. This college is located in Chandigarh.

6. Faced with this situation, Mr. Sharma says all that the petitioner seeks is that he be given a status of a non-degree student and, accordingly, a degree be issued to him by respondent no.2 institute.

6.1 For this purpose, Mr. Sharma seeks to rely upon Clause 2.9 of the rules, regulations and procedures relating to the UG and PG academic programmes at the Rajiv Gandhi Institute of Petroleum Technology (RGIPT). The relevant clause, on which, Mr. Sharma seeks to place reliance reads as follows :

“2.9 Permission to study in other institutions

This is an effort to broaden the horizon of students. Some bright students may be permitted to pursue courses in other academic institutions of repute in India or even abroad, as nondegree students. The following guidelines and procedures are used for this purpose:

Eligibility: *The student who has scored grade ‘B-’ or better in the first attempt in all the courses taken thus far, does not have any backlog and his/her CPI $\geq$ 8.0. A U.G. student would be eligible to go to another institution between and 7th semester. For a PG student, the timing will be decided on a case to case basis.”*

7. A bare perusal of Clause 2.9 would show that respondent no.2 institute is empowered to grant permission to the students to study in other institutions in order to enable them to broaden their horizon as non-degree students, provided the following eligibility criteria is met by them :

- (i) The student has scored grade ‘B-’ or better in the first attempt in all courses taken by him at the relevant point in time.
- (ii) The student does not have any backlog and his/her CPI is equal to or greater than 8.0.

7.1 Furthermore, insofar as the post-graduate student is concerned, respondent no.2 institute has the discretion to decide the timing of such permission being given, *albeit*, on a case-to-case basis.

8. Mr. Sharma cannot but concede that the eligibility criteria provided in Clause 2.9 is not met by the petitioner. The petitioner, admittedly, has a CPI of less than 8. The petitioner has attained a CPI of 6.4.

9. Mr. Sharma, however, seeks to buttress the petitioner’s case by relying upon a communication dated 12.10.2018 addressed by respondent no.2 institute to the Ministry of Petroleum & Natural Gas (MP&NG). This

document is marked as Annexure R-2/6 and is appended on page 48 of the paper book. Mr. Sharma, in particular, emphasises the following part of this letter :

“.... Despite of all the above, IFAC (Institute’s Faculty Affairs Committee) deliberated and opined that the student though possessing a CPI of 6.44, which is much less than 8.0, he still may be allowed to pursue his rest of degree in an institution of his choice (even privately though RGIPT has significant reservation), if the Academic Senate, Board of Governors and Ministry of Petroleum & Natural Gas, agree and allow to such an option.”

10. Based on the aforesaid, Mr. Sharma says that respondent no.2 institute should make an exception and treat the petitioner as a non-degree student and thus, in effect issue a degree on that basis.

11. It is Mr. Sharma’s contention that *de hors* the fracas that occurred between the petitioner and the other four students, the petitioner’s career ought not to be jeopardised.

12. On the other hand, Mr. Rudra Dutta says that not only has the petitioner not fulfilled the eligibility criteria, as provided in Clause 2.9, but also that the petitioner has levelled allegations against the concerned students and the respondent no.2 institute which have been found to be without basis.

13. For this purpose, Mr. Dutta, *inter alia*, relies upon the report of the fact finding committee dated 26.07.2018.

14. Mr. Dutta also informs me (and this is something which is not disputed by Mr. Sharma) that criminal investigation was triggered against the concerned students based on a complaint lodged by the petitioner. As a matter of fact, Mr. Dutta, on instructions, has informed me that a

chargesheet has been filed in the concerned criminal court against the four students who were allegedly involved in the fracas.

15. Furthermore, Mr. Dutta says that though the letter dated 12.10.2018 was written to the MP&NG, the Ministry *via* a written communication dated 03.12.2018 (which is marked as Annexure R-2/7 and is appended on page 50 of the paper book) has put the onus on the senate of respondent no.2 institute.

16. I may only indicate that there is also a letter dated 17.12.2018 on record which has been addressed by respondent no.2 institute to MP&NG wherein it is sought to convey that if the petitioner had in his possession an admission offer from another institute, that should be filed with it, so that appropriate decision in the matter could be taken by the academic senate of respondent no.2 institute.

17. Having heard learned counsel for the parties and perused the record, according to me, what Mr. Sharma seeks, strictly speaking, does not fall within the ambit of the prayers made by the petitioner.

18. The best that can be said in favour of the petitioner is that this prayer, perhaps, falls in the realm of residuary clause i.e. prayer clause (c).

19. Furthermore, given the fact that the petitioner sought admission in another institute (i.e. Aryan Business School) during the pendency of the writ petition, these aspects, to which I have made a reference above, have come to the fore.

20. Thus, the relief sought by the petitioner is pivoted on the stand taken by respondent no.2 institute in its letter dated 12.10.2018 addressed to MP&NG.

21. A careful perusal of the relevant portion of the said letter (which I

have already extracted above), would show that all that respondent no.2 institute has said is that the rigour of Clause 2.9 can be relaxed if the academic senate, the board of governors and MP&NG were to come on board.

22. As noted above, MP&NG in its communication dated 03.12.2018 has put the onus on the senate of respondent no.2 institute.

23. Therefore, the best way forward for the senate of respondent no.2 institute along with the board of governors would be to take a decision on the matter keeping in mind the fact that the petitioner is, at worst, a young offender and one stray incident ought not to ruin his academic career.

24. As far as the purported incident is concerned, that, perhaps, may take its own course in accordance with the provisions of the law.

25. Mr. Sharma has, however, indicated to me that he would advise the petitioner to ensure that criminal case against other four students is brought to an end with the intercession of the concerned court.

26. In case such a step is taken by the petitioner, the senate could take this fact into account while reaching a conclusion in the matter.

27. The captioned writ petition is disposed of with the aforesaid directions.

28. Needless to say, the senate will take a decision in the matter with due expedition, though, not later than three months from the date of receipt of a copy of the order.

29. Resultantly, the pending application shall stand closed.

RAJIV SHAKDHER, J

DECEMBER 05, 2019/aj