

ORISSA HIGH COURT: CUTTACK

W.P.(C) NO. 33694 OF 2021

In the matter of an application under Articles 226 and 227 of the Constitution of India.

AFR

Bishnu Kishore Majhi Petitioner

-Versus-

State of Odisha and others Opp. Parties

For Petitioner : M/s. S.P. Das and S.K. Mahanty, Advocates.

For Opp. Parties : Mr. A.K. Mishra,
Addl. Govt. Advocate
[O.P. No.1]

Mr.T.K. Satapathy,
Advocate [O.P.Nos.2 & 3]

M/s P.R. Dash, K. Raj,
J. Sahu and S. Mohapatra,
Advocates [O.P. No.4]

P R E S E N T:

**THE HONOURABLE DR. JUSTICE B.R.SARANGI
AND
HONOURABLE MR. JUSTICE G. SATAPATHY**

Date of hearing and judgment: 02.11.2022

DR. B.R. SARANGI, J. The Petitioner, by means of this writ petition, seeks direction to opposite party no.2-Biju Pattnaik University of Technology, Odisha, Rourkela to provide the original certificate and final grade sheet of M.Tech (Power System Engineering) Course in respect of registration no.1207287017 immediately, along with adequate compensation for the detriment suffered by him.

2. The factual matrix of the case, in brief, is that in the session 2012-13 the petitioner admitted into the course of M.Tech. (Power System Engineering) in Gandhi Institute for Technological Advancement (GITA) at Bhubaneswar, which is a constituent college under the Biju Pattnaik University of Technology (BPUT), Odisha, and was allotted with registration no.1207287017. Though the regular tenure of M.Tech. Course was two years, but the same can be completed within five years. The tenure of the petitioner was completed in the academic session 2016-17. The petitioner appeared in the examination and cleared his

first semester back paper on 15.12.2017 (i.e. odd semester 2017-18 academic session), by which time his prescribed tenure was over in 2016-17. But result of such examination was published and his provisional certificate and provisional grade list were made available in the official website of the BPUT.

2.1 Even though the petitioner had completed/cleared all the subjects (both theory and practical) of M.Tech. Examinations in the Power System Engineering from 1st to 4th semester, but the subject Power System Dynamics (EEPC202) was shown twice in the student history. As such, the Director of Examinations of BPUT was finally requested by the Principal of GITA vide e-mail dated 15.05.2020 to take necessary steps to update the data base in the website of the BPUT. Consequentially, the provisional certificate and provisional grade list of the petitioner were duly corrected and uploaded in the website of the BPUT and, as such, printout copies are also filed as Annexures-2 and 3 to the writ petition. After carrying out the

correction, the BPUT was to provide original hard copies of the aforesaid certificates, but the same were not supplied. Thereafter, the petitioner moved pillar to post to get the hard copies of the certificates and ultimately sought information under the Right to Information Act, 2005. In response to the same, a communication was made on 24.08.2021 stating therein that as the petitioner had backlog in one subject in the 1st semester, his M.Tech. Course is incomplete. Hence, this writ petition.

3. Mr. S.P. Das, learned counsel for the petitioner vehemently contended that when the Director of Examinations of BPUT had certified by issuing provisional certificate and provisional grade sheet by uploading the same in the website, which were downloaded and printouts of which are filed as Annexures-2 and 3 to the writ petition, that the petitioner has successfully cleared the M.Tech. Course, the communication so made, vide letter dated 24.08.2021, pursuant to the information sought under

the Right to Information Act, 2005, that the petitioner has backlog in one subject in 1st semester and thus his M.Tech. Course is incomplete, is absolutely misconceived one and, as such, the BPUT is estopped to take such a stand at this stage. It is further contended that there was no such provision with regard to completion of M.Tech. Course within five years, as stated by the BPUT and, as such, no rules or notifications are placed on record, while filing counter affidavit by the opposite parties, prescribing the period of completion of M.Tech. Programme within five years. It is contended that the opposite parties have admitted that the petitioner had appeared in the examination and had come out successful. But, subsequently, the BPUT has taken a plea that by mistake the result of the petitioner was published and when the same came to the knowledge of the University during scrutiny of final preparation of pass/fail tabulation register for printout of the result of the petitioner, he was declared as fail, and that inadvertently the pass certificate was issued in

favour of the petitioner through online and, as such, the petitioner had appeared the examination after the prescribed tenure was over, which is not correct. It is contended that without supported by any rules or regulations, such a plea should not have been advanced before this Court. It is further contended that the opposite parties have admitted that the petitioner had successfully cleared his 1st semester on 15.12.2017 and result thereof was published and provisional certificate and provisional grade sheet were published through online. Thereby, subsequently, the opposite parties are estopped to withdraw the result of the petitioner and, as such, the plea so advanced by the University cannot sustain in the eye of law.

To substantiate his contention, learned counsel for petitioner has relied upon the judgment of the apex Court in the case of **Sanatan Gauda v. Berhampur University**, AIR 1990 SC 1075.

4. Mr. A.K. Mishra, learned Addl. Government Advocate appearing for opposite party no.1 contended

that since the petitioner has claimed for providing hard copies of the original certificate and final grade sheet of M.Tech. (Power System Engineering) Course and due to non-supply of the same he has approached various authorities, including the State authorities, by filing representation under Annexure-4 dated 06.07.2021 and in response to the same, the Director, PG & Ex-Officio Special Secretary to Government, G.A. & Public Grievance Department communicated the grievance of the petitioner vide Annexure-5 dated 07.07.2020 to the Commissioner-cum-Secretary to Government, Higher Education Department to look in to the matter and take appropriate action for redressal of the grievance of the petitioner, as such, the matter is between the petitioner and opposite party-BPUT and the same has to be resolved by the BPUT, not by the State.

5. Mr. T.K. Satapathy, learned counsel appearing for opposite parties no.2 and 3-BPUT, while admitting the fact that the petitioner had been admitted into the M.Tech. (Power System Engineering) Course

and was provided the registration no.1207287017, contended that the M.Tech. programme into which the petitioner had been admitted was for a period of two years but for the weaker students the said programme was to be completed within five years. Therefore, the tenure of the petitioner was completed in the academic session 2016-17. But the petitioner appeared in the examination on 15.12.2017 (i.e. odd semester 2017-18 Academic Session) after the tenure was over. Although the petitioner had appeared in the examination beyond the period of tenure prescribed by the University and his answer scripts were inadvertently evaluated and result thereof was uploaded in the website of the University, but the University, after knowing the fact, rectified the same and withdrawn the result of the petitioner, as he was not entitled to get pass certificate for the said programme, as per the academic regulation of the University. It is further contended that on verification by the University, it was found that the petitioner in collusion with the College Authority had

appeared in the subject on 15.12.2017, even though his tenure was over by July, 2017. It is contended that the mistake, having been detected, was rectified by the authority and, therefore, the petitioner is not entitled to get the hard copies of the original certificate and final grade sheet of M.Tech. (Power System Engineering) Course.

6. Mr. Subhakanta Mohapatra, learned counsel appearing for opposite party no.4-GITA contended that the petitioner was a student of GITA and admitted into the Course of M.Tech. (Power System Engineering) and, as such, he had appeared in the examination and his result was published in the website of the University and accordingly his provisional certificate and provisional grade sheet were also uploaded in the website, which were downloaded and placed on record as Annexures-2 and 3 to the writ petition. It is contended that the Principal, GITA, vide letter dated 15.05.2020, wrote to the Director, Examination, BPUT, Rourkela that the petitioner completed all the theory

and practical papers from 1st to 4th semester examinations as per the official record and, as such, his result copies are attached for kind consideration. Furthermore, the subject “Power System Dynamics (EEPC202)” had been shown twice in the student history, and, therefore, necessary steps should be taken at the University level to update the petitioner’s result in the BPUT data base. Consequentially, the same was also corrected and after carrying out the corrections, provisional certificate and provisional grade sheet were uploaded in the website and, as such, the same were downloaded by the petitioner and annexed as Annexures-2 and 3 to the writ petition. Thereby, there is no justification not to supply the hard copies of such certificates to the petitioner, as he has already suffered a lot for non-supply of the same.

7. This Court heard Mr. S.P. Das, learned counsel for the petitioner; Mr. A.K. Mishra, learned Addl. Government Advocate appearing for opposite party no.1; Mr. T.K. Satapathy, learned counsel

appearing for opposite parties no.2 and 3-BPUT; and Mr. Subhakanta Mohapatra, learned counsel appearing for opposite party no.4-GITA by hybrid mode and perused the records. Pleadings having been exchanged between the parties, with the consent of learned counsel for the parties this Writ Petition is being disposed of finally at the stage of admission.

8. On careful appraisal of the pleadings available on record, it is transpired that admittedly the petitioner was prosecuting his studies in M.Tech. (Power System Engineering) course, the tenure of which was for two years. The petitioner completed his course in the academic session 2016-17, having passed in all the theory and practical papers from 1st to 4th semester examinations, as per the record of opposite party no.4, i.e., GITA and, as such, result of the petitioner was also published. But the subject Power System Dynamics (EEPC202) was shown twice in the student history. Therefore, request was made by the Principal of GITA to the University-BPUT, vide letter dated 15.05.2020

under Annexure-1, to make necessary correction. In response to the same, necessary correction was also carried out and the provisional certificate and provisional grade sheet were uploaded in the website and, as such, the petitioner has also downloaded the same on 22.06.2020, as is evident from Annexures-2 and 3 to the writ petition. After publication of the result and uploading the certificates, which were downloaded by the petitioner, when the petitioner asked for supply of hard copies of such certificates, the same was denied on a plea that by mistake the same was published after the academic session 2016-17 was over. As such, the petitioner, in collusion with the College Authority, had appeared in the said subject on 15.12.2017, even though the tenure of the petitioner was over by July, 2017 and the University inadvertently evaluated the answer script and published the result through online. Therefore, after the mistake was detected, the same was withdrawn, for the petitioner is not entitled to get the pass certificate. Thereby, the BPUT has candidly

admitted that the petitioner had appeared in the examination on 15.12.2017 and result thereof was published through online and by mistake the same was done. But that by itself cannot enure to the benefit of the University to deny the hard copies of provisional certificate and provisional grade sheet to the petitioner, rather, the opposite party-University is estopped to do so.

9. In the case of **Miss Reeta Lenka v. Berhampur University**, 1992 (II) OLR 341, where the petitioner had been admitted in Rama Devi Women's College in 1985 and completed her B.Sc. from that College and thereafter obtained Diploma in Pharmacy from V.S.S. Medical College, Burla, but on cancellation of her result because of mass copying she had approached this Court, it was observed by this Court that in cases of mass copying, natural justice is not required to be complied with and, as such, it is apparent that the candidate in question does not get an opportunity to have his say in the matter. Therefore,

after thorough discussion on the principle of promissory estoppels under Section 115 of the Evidence Act, the Division Bench of this Court held that the said case was a fit case, where the petitioner should be protected by applying the principles of promissory estoppel.

Similar view was taken in the case of **David C. Jhan v. Principal Ispat College, Rourkela and others**, 1984 (I) OLR 564, where the petitioner was admitted to the College after being declared to have passed the High School Certificate Examination conducted by the Board of Secondary Education, but subsequently the Board notified that the candidate was wrongly declared to have passed and on the basis of such notification, the College Authorities cancelled the admission of the petitioner. But due to interference of this Court, referring to the judgment of this Court in the case of **Gita Mishra v. Utkal University**, ILR 1971 CUT-24, the said notification was quashed and the petitioner in the said case was permitted to continue his studies.

10. In **Ambika Prasad Mohanty v. Orissa Engineering College and another**, 1989 (I) OLR 440, this Court, applying the principle of estoppel, observed that once a student is admitted after satisfying all the qualification, subsequent cancellation of admission cannot be made since he/she would be deprived of pursuing his/her studies in any other institution.

11. The principles of promissory estoppel has been considered by the apex Court in **Union of India and others v. M/s Anglo Afghan Agencies etc.**, AIR 1968 SC 718, **Chowgule & Company (Hind) Pvt. Ltd. v. Union of India and others**, AIR 1971 SC 2021, **M/s Motilal Padampat Sugar Mills Co. Ltd. v. The State of Uttar Pradesh and others**, AIR 1979 SC 621, **Union of India and others v. Godfrey Philips India Ltd.**, AIR 1986 SC 806, **Delhi Cloth & General Mills Ltd. v. Union of India and others**, AIR 1987 SC 2424, **Bharat Singh and others v. State of Haryana and others**, AIR 1988 SC 2181 and many other subsequent decisions also.

12. **Sanatan Gauda** (supra) is a case where the petitioner, while securing his admission in the Law College, had admittedly submitted his mark sheet along with the application for admission, the law college had admitted him and he had pursued his studies for two years, the University had also granted him the admission cards for the Pre-Law and Inter-Law Examinations, he was also permitted to appear in the said Examinations and was admitted to the Final Year of the course and it was only at the stage of the declaration of his results of the Pre-Law and Inter-Law Examinations, the University raised objection to his so-called ineligibility to be admitted to the law course. Therefore, in the said case, this Court held that the University is clearly estopped from refusing to declare the results of the appellant's examination or preventing him from pursuing his Final Year course.

13. The ratio decided by this Court as well as the apex Court, as discussed above, is fully applicable to the present case and any other plea advanced by

opposite parties no.2 and 3-BPUT, cannot sustain in the eye of law.

14. In the case of **P.V. Mahadevan v. Md. T.N. Housing Board**, (2005) 6 SCC 636, the apex Court, in paragraphs-8, 10 and 11 of the judgment held that for the mistake committed by the Department in the procedure for initiating a disciplinary proceeding, the appellant should not be made to suffer. Similar view has also been taken in **Secretary Ministry of Defence v. Prabhask Chandra Mishra**, (2012) 11 SCC 565.

15. In the above premises, the stand taken by the BPUT, that inadvertently the result was published and subsequently the mistake having been detected the same was withdrawn, cannot have any justification, in view of the law laid down by the apex Court, as mentioned supra.

16. Having considered the case both factually and legally, this Court arrives at a conclusion that the relief sought by the petitioner deserves to be allowed. As

such, the opposite party-BPUT is directed to issue the original certificate and final grade sheet of M.Tech (Power System Engineering) Course, the provisional of which were uploaded in the website of the University and are placed on record as Annexures-2 and 3, in respect of registration no.1207287017, in favour of the petitioner, as expeditiously as possible, preferably within a period of one month from the date of production of certified copy of this judgment.

17. In the result, the writ petition is allowed. However, there shall be no order as to costs.

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DR. B.R. SARANGI,
JUDGE

G. SATAPATHY, J. I agree.

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G. SATAPATHY,
JUDGE

Orissa High Court, Cuttack
The 2nd November, 2022, Ashok/GDS