

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

101

CWP-8120-2019

Date of Decision:27.09.2022

Yash Tewatia

.....Petitioner

Versus

**The Permanent Lok Adalat for
Public Utility Services, Faridabad and another**

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

**Present: Mr. Abhijeet Singh, Advocate for
Mr. Rajesh Lamba, Advocate,
for the petitioner.**

Mr. Pankaj Mulwani, D.A.G., Haryana.

VINOD S. BHARDWAJ , J.(Oral)

Prayer in the instant civil writ petition filed under Article 226 of the Constitution of India is for issuance of a writ in the nature of certiorari for setting aside the order dated 21.01.2019 (Annexure P-2) passed by Permanent Lok Adalat (Public Utility Services), Faridabad, vide which the petition under Section 22-C(1) of the Legal Services Authorities Act, 1987 was dismissed.

Briefly summarized the facts of the case are that the petitioner had taken admission in the University of respondent No.2 in the B.Tech ECE for the session 2015-16. An amount of ₹1,15,000/- was deposited as a tuition fee and other charges for the whole academic year vide receipt

No.MRIV/26.06.2015/6.28. However, the petitioner sought cancellation of his admission and prayed for refund of the amount so deposited by him. A written application in this regard was also submitted by the petitioner on 04.08.2015. The respondent No.2 refunded an amount of ₹3,000/- to the petitioner as against the total deposited amount of ₹1,15,000/-. The petitioner submitted a legal notice dated 08.03.2016 praying for refund of the amount, however, the same was not acceded to. Consequently, the proceedings were initiated before the Permanent Lok Adalat (Public Utility Services), Faridabad.

Upon consideration of the rival submissions advanced by the respective parties, the Permanent Lok Adalat (Public Utility Services), Faridabad, dismissed the petition filed by the petitioner.

Aggrieved thereof, the present civil writ petition has been filed by the petitioner.

Learned counsel appearing on behalf of the petitioner has vehemently argued that the respondent No.2-University had only taken a stand that the seat had remained vacant and that there was no proof led by the respondent No.2 about the seat not being filled up. He further contends that the condition of forfeiting the entire amount was onerous and the Permanent Lok Adalat (Public Utility Services), Faridabad ought to have considered the application sympathetically.

The arguments of the petitioner have been considered. It is undisputed that the Brochure specifically contained the provision regarding refund of fee and it was stipulated in the Brochure finalized in accordance with the UGC guidelines, that in case a candidate/student left after joining the course within a period of 24 hours, he would be entitled to refund of the

entire fee, however, if the seat has remained vacant on account of not being filled up by any other student by the last date of admission, the Institution is not liable to refund of the fee. It is not disputed that the petitioner had taken admission on 06.07.2015 and had sought refund of the fee and cancellation of his admission vide application dated 04.08.2015 i.e. after a month of attending classes. Accordingly, the conditions of the Brochure did not entitle the petitioner to claim refund of the amount for which the claim petition had been preferred before the Permanent Lok Adalat (Public Utility Services), Faridabad.

It was next argued by the learned counsel that no evidence has been led by respondent No.2 to show that the seat remained vacant. In so far as the submission of the petitioner that it was for the respondent No.2 to establish the seat had remained vacant, is concerned, the said submission is bereft of merit. There can be no negative burden cast upon the respondent No.2 to establish a fact which is not in existence. The said burden lay on the petitioner that the seat had actually been occupied and had not remained vacant.

In so far as the argument of the petitioner to the effect that the conditions of the Brochure were onerous and harsh is concerned, the said argument does not find any favour since the terms & conditions of the Brochure/Prospectus were fully known to the petitioner. He participated in the admission process despite being aware of the said conditions. Having taken part in the admission process fully knowing the conditions and having exercised his options, it does not lie for the petitioner to subsequently raise a challenge to the terms & conditions of the Brochure. Consequently, the aforesaid argument also fails to convince this Court.

Furthermore, while dismissing the application preferred by the petitioner, the Permanent Lok Adalat (Public Utility Services), Faridabad has duly referred to the UGC guidelines as well as the conditions of the Brochure and also the fact that the seat that had fallen vacant on account of withdrawal of admission by the petitioner had not been filled up. The policy for withdrawal and refund of the fee had also been placed on record as Exhibit R-2 to be in consonance with the public notice of the University Grant Commission (UGC) dated 23.04.2007.

No other argument has been raised by the counsel for the petitioner. He also could not refer to any material on the basis whereof it could be held that the finding recorded by the Permanent Lok Adalat (Public Utility Services), Faridabad was erroneous or based upon misreading of the documents or evidence available on record.

Learned counsel appearing on behalf of the petitioner also could not point out any illegality, perversity or impropriety in the impugned order passed by the Permanent Lok Adalat (Public Utility Services), Faridabad.

In view thereof, the present civil writ petition is dismissed in *limine*.

September 27, 2022
seema

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No