

08.02.2023

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WPA 194 of 2023

Shirin Sarja Juhana
Vs.
Aliah University & Ors.

Mr. Arka Maity
Ms. Ambiya Khatun
Mr. Nepesh Maji
... For the petitioner.

Mr. Raghunath Chakraborty
Ms. Amrita De
... For the University.

The petitioner took admission under Aliah University at New Town, Kolkata in Bachelor of Vocation (B. Voc.) in Retail Management in the year 2019. She deposited Rs. 6,000/- with the University for admission. The University, however, could not start the proposed course.

The petitioner was not told anything about the reasons for non-commencement of the course. Only in the year 2022, by a letter dated August 05, 2022, she was informed that the number of admitted students was inadequate to start the course as the course was self-financed. It was further informed that due to the Covid-19 pandemic situation, a vocation-oriented practical course like Bachelor of Vocation could not be started. The petitioner was asked to collect her paid fee from the University.

It has been submitted on behalf of the petitioner that the petitioner has lost valuable three years due to the failure of the University to start the course. The petitioner had no fault. The University should, therefore, either compensate the petitioner or allow her to take admission to a different course under Aliah University.

In support of such submission, learned advocate appearing for the petitioner relies upon a judgment and order dated June 13, 2022, passed by a Division Bench of this Court in **MAT 479 of 2019 (Abhisek Panda & Ors. vs. West Bengal National University of Juridical Sciences & Ors.)**. Reliance has been placed also upon the judgment reported at **(2020) 17 SCC 465 (S. Krishna Sradha vs. State of A.P.)**.

I am not persuaded by the petitioner to allow her prayer.

The fact remains that the course did not even start. The petitioner was aware of such fact since she never attended any classes. Therefore, it was only reasonable for her not to wait for three years for an official communication to be made from the University. She should have explored other career avenues in the meantime.

The facts involved in this case are totally distinguishable from Abhisek Panda case where West Bengal National University of Judicial Science started

an online course in the year 2012, and decided to discontinue in the year 2019. The Division Bench directed that the students, who had already enrolled themselves from 2012 and not completed the same, should be allowed to complete the course.

In **S. Krishna Sradha** case, the Supreme Court held that in case of illegal and arbitrary denial of admission to a meritorious candidate who has duly and expeditiously pursued his/her legal remedies, restitutionary relief of providing admission in the relevant year or if not possible, in the subsequent year should be granted and in such case, compensation can be the additional relief only.

I have already discussed the facts of the case. The aforesaid judgments were passed in totally different facts and they render no assistance to the petitioner. In the case in hand, the University had proper reason for not starting the course. The decision was not arbitrary or illegal.

Accordingly, WPA 194 of 2023 is dismissed.

The University will refund the fees accepted from the petitioner within two weeks from date. The petitioner will provide the bank details for the said purpose.

There will be no order as to costs.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)