

05.03.2024
Sl. No.3
Suman/AKG
Ct.No.238.

WPA 857 of 2024

**Durgapur Institute of Science, Technology and
Management
Vs.
The State of West Bengal and Ors.**

Mr. Srijib Chakraborty
Mr. Pintu Karar
Mr. A. Banerjee
Mr. Saikat Kolley
Mr. S. Laskar

..for the petitioner

Mr. Shamim ul Bari
Ms. Oindrila Chatterjee

..for the State

Ms. Nandini Mitra

..for the University

The petitioner/college was granted affiliation by respondent no.3/university in the year 2017, which was renewed from time to time.

By a letter dated September 5, 2023, the university asked the college to deposit fees for affiliation for the academic year 2023-2024. Accordingly, the college on October 13, 2023, deposited Rs. 64,000/- towards the affiliation fees.

The university, however, did not renew the affiliation and, by a letter dated November 2, 2023, asked the college to deposit Rs.5,21,000/- as

application fees, inspection fees and affiliation fees for the academic year 2018-2019 and 2019-2020.

The college, in response to such demands, asserted that the fees in question had already been paid.

The university was not satisfied and declined to renew the affiliation for the academic year 2023-2024.

The college, however, had already admitted ten students in the first semester of the current academic year 2023-2024. It has been submitted by the college that the university had not granted them registration to allow them to sit in examinations.

The college prays for renewal of its affiliation by the university and consequential reliefs.

This Court, directed the college to produce necessary documents demonstrating the payment of fees for the academic years 2018-2019 and 2019-2020. The college, however, has failed to produce any documents to show such payments.

Ms. Mitra, learned advocate appearing for the university vehemently opposes the stance taken by the college. It has been submitted by Ms. Mitra that though many other colleges, in response to the demand made by the university, had deposited their previous dues for affiliation, this college had shown an

arrogant attitude and declined to pay the affiliation fees for the academic year 2018-2019 and 2019-2020.

Ms. Mitra has strenuously argued that from the year 2018-2019 onwards fees could be paid online through “ERP” portal of the university. The college, evidently, did not pay any fees for the academic year 2018-2019 and 2019-2020.

In course of hearing of this writ petition, I directed the college to produce proof of payments of fees for the academic session 2018-2019 and 2019-2020. The college, however, could not produce any document.

The regulations relating to grant of affiliation have been framed under Clause 5 and 6 (a) of the relevant regulations of the university. The said clauses read as follows:

“5. Affiliation to an institution/college shall be accorded on a course wise basis. An institution/college shall be charged an affiliation fee for each programme/course at the time of first approval for affiliation of the new programme/course and yearly continuing fee for each ongoing course as per rates decided by the University from time to time. Government institutions/colleges shall be exempted from paying any affiliation/continuing fee.

6. The University shall have the power to suspend/withdraw affiliation of a course in an institution/college and/or affiliation of an institution/college if it is satisfied that -

(a) Any of the conditions provided in the terms of affiliation, as per regulation is not being observed, including those formulated by the University from time to time.”

In my view, denying the renewal of affiliation for the academic year 2023-2024 solely on the ground of non-payment of affiliation fees for the years 2018-2019 and 2019-2020 is de-hors the aforesaid regulations of the university. The university could not have declined to renew the affiliation for the current academic session after accepting the fees for the same.

Ms. Mitra has argued before this Court that as per the regulations of the university relating to declaration of results, promotions and grading system as amended, the students who have taken admission in the first semester cannot be allowed to continue their studies.

The relevant regulation is quoted below:

**“First Regulation (27/12/2002) Chapter – III Serial 6
Declaration of result, promotions and Grading systems**

A. The promotional status shall be published on the Even Semester Credit Card/sheet as per details indicated in Part 2, Chapter I

Candidates will be eligible for promotion to the next semester without clearing all end semester theory courses of earlier semesters if,

- a. Candidate has minimum attendance percentage of 75% in the previous semester
- b. Candidates must have appeared for all internal examinations and has secured marks in Continuous Assessments, Sessional Examinations, Practical Examinations
- c. Candidates must have applied for appearing in the end semester examinations and have valid admit card in previous semester

Candidates failed to achieve the minimum benchmarks as mentioned in (a), (b), (c) for promotion will not be eligible for promotion to the next higher semester.

Candidates will appear in the end semester theory examinations as back log candidate in corresponding semester of subsequent academic year. Marks scored in Continuous Assessments, Sessional Examinations, Practical Examinations during attending regular semester with minimum qualifying attendance would be carried all through. Backlog candidates would be allowed to appear in the end semester examinations only to achieve qualifying marks of the paper concerned.

If any candidate fails to secure minimum qualifying marks (pass marks) in sessional or practical examinations would suffer year lag and they have to continue the semester concerned afresh in the next academic year. However, there would be no separate qualifying/pass marks in the internal examination of 30 marks (CA 25 plus attendance 5marks). The marks of a back log paper will be determined from the marks obtained in theory examination and marks of the continuous evaluation of the regular semester. No up-gradation of internal/continuous assessment marks would be allowed.

If any candidates fails to achieve any of the three conditions above (a, b & c) in any semester (say, 1st semester), they would not be allowed to continue their study in the next semester (i.e.2nd semester) and they have to fulfil the academic regulations by enrolling them in the next academic year from the discontinued semester (i.e. 1st semester) and so on.

However, there would not be any limit of number of back papers to continue their study in subsequent semester as regular candidate.”

I am of the view that the bona fide students, who had taken admission in the first semester, should not suffer for the illegal denial by the university to renew the affiliation.

In view of the aforesaid, this writ petition is disposed of with the following directions:

The college will pay the due fees of Rs.5, 21,000/- for the academic year 2018-2019 and 2019-2020 in two equal installments. The first installment

must be paid within 15 days from date. The remaining installment should be paid within a period of 45 days thereafter.

Immediately after deposit of the first installment, the university shall renew the affiliation of the college for the academic year 2023-2024 and grant registration to the students who had been admitted in the first year.

The university shall allow the said students to take the second semesters examination without clearing the first semester examination. The students shall be permitted to clear their first semester papers along with their third semester papers.

It is submitted by the college that the sessional and practical examinations for the first semester have been conducted by the college for the aforementioned students. The assessment records from these examinations are to be submitted to the university for inclusion in their first semester marksheets.

These directions are issued with the condition that the college deposits the required fees as per this order and that the students are otherwise eligible to participate in the examinations.

WPA 857 of 2024 is disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)