
(2012) 08 RAJ CK 0029

In the Rajasthan High Court

Case No : Civil Writ Petition No. 11196 of 2011

Abhishek Singh Panwar

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

Constitution of India, 1950 — Article 21, 21A

Citation : (2013) 1 RLW 123 : (2013) 1 WLN 239

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : M.S. Godara, for the Appellant; Sundeep Bhandawat, Govt. Counsel, Mr. K.L. Thakur and Mr. M.S. Panwar for the Respo No. 2 and Mr. Rajesh Shah for the Respondent No. 5, for the Respondent

Final Decision : Allowed

Judgement

Hon"ble Dr. Justice Vineet Kothari

1. This writ petition paints a very gloomy picture of budding career of an aspiring engineering student being killed by a typical bureaucratic, rather non-sensible attitude on the part of the Technical Education Department of Government of Rajasthan and Engineering College - respondent No. 5 and others, who are running the business of imparting education in our country. Petitioner - Abhishek Singh Panwar, a student aged 17 years - a minor, through his widowed mother Smt. Rajrani widow of late Shri Jaswant Singh, in the circumstances of poverty, appeared in the admission test for engineering courses conducted by the respondent No. 2 - Rajasthan Technical University through its Coordinator, RPET, 2011, Board of Technical Education, Jodhpur. The petitioner appeared in 10 + 2 Examination conducted by the Board of Senior Secondary Education, Ajmer in the year 2011 in the month of March, 2011 and unfortunately got supplementary in Mathematics Paper. He was permitted by the said Rajasthan Board of Secondary Education, Ajmer to appear in the supplementary examination in the month of June, 2011. In the result sheet dated 27.05.2011 (Annexure 2), the

petitioner secured 38 marks as against the minimum pass marks of 50 in Mathematics. In the supplementary examination vide result sheet dated 22.09.2011 (Annex. 3), he passed the said paper of Mathematics by securing 54 marks, out of 120. Thus, on 22.09.2011, he fully satisfied the criteria to take admission in the Engineering Course for which he had also cleared the admission test known as RPET, 2011 and consequently was granted provisional admission by the respondent No. 5 - Jodhpur Institute of Engineering and Technology, Pali Road, Jodhpur. He deposited Rs. 65,500/- on 20.08.2011 vide Annexure 5. The library tokens were also issued to him vide Annexure 6 dated 20.09.2011 and he was undergoing his Engineering Course.

2. Like a Boalt from the blue, he was served with the impugned communication Annexure 7 dated 20.10.2011 by the Registrar of the said College - respondent No. 5 that his application has been rejected by the competent authority i.e. RPET, 2011, the Board of Technical Education, Rajasthan, Jodhpur, respondent No. 2, who has cancelled his admission in the First Year Engineering in which he studied by that time for about two months, bringing a cruel end to his budding career.

3. The petitioner filed the present writ petition in this Court on 04.11.2011 in which notices were issued by this Court on 21.11.2011 and after service on the respondents, the respondents No. 1, 2, 3 and 4 have filed reply but the respondent No. 5 - Jodhpur Institute of Engineering and Technology has not filed any reply to the show cause notices issued by this Court, though Mr. Rajash Shah, Advocate has put in appearance on behalf of the respondent No. 5. Mr. Sundeep Bhandawat, learned Government Counsel appeared for the respondent Nos. 1, 3 and 4. Mr. K.L. Thakur and Mr. M.S. Panwar appeared for the respondent No. 2.

4. Learned counsel for the petitioner, Mr. M.S. Godara, argued that due to fixation of cut-off date 15th September, 2011 under Clause 13 of the impugned order dated 30.08.2011 (Annexure-1) issued by the Department of Technical Education, Government of Rajasthan, though it had no rational nexus behind it but by which date the result of the supplementary examination of Mathematics of 12th Class of the present petitioner was not admittedly declared, which however, was declared one week only thereafter on 22.09.2011 and the respondent No. 5 Institution appears to have acted on that basis in cancelling the admission of the petitioner without affording an opportunity of hearing to him, though the said office order dated 30.08.2011 does not ask for any cancellation of the admissions already granted by colleges / institutions after counselling, but only requires the respective institutions to supply a list of students already admitted along with the relevant documents by 17.09.2011 at 05:00 p.m. No communication other than this document (Annexure 1) by the said Technical Education Department, addressed to the respondent No. 5 - Institution or common to all such institutions is on record to indicate that any cancellation of the provisional admissions already granted was directed by the State Department nor the respondent No. 5 institution has placed on record anything to bring forth the

specific reason for which the provisional admission of the present petitioner was cancelled suddenly on 20.10.2011 vide Annexure 7, by which date having cleared his 12th examination in supplementary results declared one month back on 22.09.2011..

5. Therefore, it is anybody's guess why the provisional admission of the present petitioner had been cancelled. No rational nexus behind fixing this cut-off-date of 15.09.2011 has also been shown by any of the respondents. The Rajasthan Board of Secondary Education is also a body governed by the State Government, so also, the Department of Technical Education, who has issued the Annexure 1, the office order dated 30.08.2011. While fixing the cut-off date of 15th September, 2011, the concerned officer is presumed to know that the supplementary results of the Board of Secondary Education are yet to be out and students' position about eligibility by passing out in such supplementary examination will crystallize only after that, will also be equally entitled to get / retain their admission in the Engineering Colleges, for which as per the eligibility criteria provided in RPET 2011 were the students including those who had only appeared in 10 + 2 Examination of Senior Secondary in the year 2011 in March. The Engineering Colleges / Institutions have continued to fill up the vacant seats up to November / December, 2011 and still were left with vacant seats. The said fixation of the cut-off date of 15th September, 2011 by the Special Officer Mr. R.K. Gupta, Technical Education Department, who has signed the said order Annexure 1 dated 30.08.2011, appears to be without any rational nexus and at least adversely affects the rights of those persons like the present petitioner, who acquired the eligibility criteria fully by being declared pass in 12th Examination in one of the papers i.e. in Mathematics after this cut-off date.

6. No blame could be laid at the doors of poor students, who with a great struggle could crystallize their eligibility only on 22.09.2011. The delay in holding supplementary examination in June, 2011 and declaring the result thereof only on 22.09.2011 cannot be attributed to them at all. As per decision of this Court in Suresh Kumar Meena vs. State of Rajasthan & ors. reported in 2010 (1) RLW 914 (Raj.) following the Supreme Court decision in Council of Homoeopathic System of Medicine, Punjab and others Vs. Suchintan and others, this result of supplementary examination has to relate back to the original result declared on 27.05.2011 and thus the petitioner would be eligible even before the given cut-off date of 15.09.2012 as Annexure 1. It is true that the institutions have a Calendar for conducting their engineering courses and those who are admitted in the courses have to be eligible, having acquired their prerequisite qualifications of 10 + 2 Examinations, but here is a case where the boy i.e. the petitioner admittedly acquired this eligibility while being totally unaware about the cut-off date of 15th September, 2011 fixed by Mr. R.K. Gupta, Special Officer, Technical Education, Government of Rajasthan, Jaipur. He has already undertaken that course for almost two months by that time when the respondent No. 5 institution suddenly appears to have cancelled his admission for the reasons best known to them, keeping all others guessing. No opportunity was given to the petitioner or

his likes before passing orders Annexure 1 and Annexure 7 by any of the respondents. To add insult to the injury, the respondent No. 5 chose not to even file a reply to the show cause notices issued by this Court to it despite service of notices immediately and making their position clear in this regard. Admittedly, the impugned order Annexure 7 dated 20.10.2011 cancelling the admission of the petitioner was passed without affording any opportunity of hearing to the petitioner while killing his career. Least one can say about such orders is that the same being in total breach of fair principles of natural justice or *audi alteram partem*, such orders which adversely affect the rights of a person are void ab initio.

7. Both the respondents i.e. the respondent No. 1 -the Technical Education Department and the respondent No. 5 Institution have miserably failed before this Court in assigning any cogent reasons for cancelling of the admission already given to the petitioner, who by that time of the cancellation of the admission, had admittedly and undisputedly fully satisfied the eligibility criteria by passing the 10 + 2 Examination and by the ruling of relating back even before the cut-off date of 15.09.2011, but his career was killed by the joint and several actions of these two respondents. One fails to understand what punishment or compensation can recoup / compensate the agony of such poor student, who has lost his valuable year of Session 2011-12.

8. The Court is also aware of the incidents where students of this age group, out of such frustration are led to commit suicides and valuable lives are, thus lost while the government officers and corporate bodies like the respondent No. 5 enjoy their so-called technical compliance with the arbitrarily fixed cut-off dates in their air-conditioned rooms. Such blind folded, pathetic and heartless attitude of the persons manning such institutions and the Technical Education Department of the Government can successfully kill the Constitutional mandate of Education enshrined under Article 21 and 21A of the Constitution of India. This Court at this stage in the month of August, 2012, when even the next year's Session of the engineering courses has commenced, least it can do, is to quash the impugned communication Annexure 7 dated 20.10.2011 and direct the respondent No. 5 - institution to re-admit the present petitioner in the academic Session 2012-13 in the First year of the said course, which he was pursuing at the time of passing of impugned order Annexure 7 dated 20.10.2011.

9. In the circumstances of the case, this Court is of the further considered opinion that unless exemplary costs are imposed and recovered from the persons responsible for giving rise to these kind of cases, the situation will not be remedied a bit qua host of other similarly stranded and struggling students and such cases may be kept on repeating and contested in courts of law. In view of the foregoing discussion, the present writ petition is allowed with costs. The impugned order Annexure 1 to the extent of Clause 13 fixing the cut-off date dated 15th September, 2011 and Annexure 7 dated 20.10.2011 are quashed and the respondent No. 5 is directed to readmit the present petitioner in the First

Year of Engineering Courses B. Tech (Mechanical), which he was attending prior to passing of the impugned order dated 20.10.2011. Since the fees for that year of Rs. 65,500/-already stands paid by the petitioner vide Annexure 5 dated 20.09.2011, no further fees for this year shall be charged from the present petitioner, even if so increased for others and as a compensation for loss caused to the petitioner, both the respondents i.e. respondent No. 1 - State Technical Education Department and the respondent No. 5 Institution shall pay exemplary cost and compensation of Rs. 50,000/-each to the present petitioner by cheque within one month from today.