
(2016) 07 DEL CK 0199
In the Delhi High Court
Case No : W.P. (C) No. 7284 of 2015

Arun Tomar

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 21-07-2016

Acts Referred:

Citation : (2016) 158 DRJ 489

Hon'ble Judges : Mr. Pradeep Nandrajog and Ms. Pratibha Rani, JJ.

Bench : Division Bench

Advocate : Mr. Aditya Singh, Advocate, for the Petitioners; Vikram Jetly, CGSC with SI/Ex. G. Rajakumar, CISE, for the Respondent; Mr. Aditya Singh, Advocate, for the Petitioners; Vivek Goyal, Advocate/CGSC with Mr. Arun Kumar, Advocate Govt. Pleader, for the Respon

Final Decision : Disposed Off

Judgement

Mr. Pradeep Nandrajog J. (Oral)—The three writ petitioners passed class XII from Gurukul University Vrindavan in the year 2008. They were all awarded a degree certified that they had passed the Xth Standard Examination conduct by Gurukul University Vrindavan which was concededly notified as equivalent to the High School Examination conduct by the Uttar Pradesh Secondary Education Board. The applicable recognition and equivalent was accorded by the State of Uttar Pradesh. The three petitioners successfully cleared the recruitment process for being appointed as a constable in a Central Armed Police Force and as per their marks were allocated to the Central Industrial Security Force. All of them has been conveyed orders dated February 02, 2015 informing them that the Gurukul Vishwavidyalaya Vrindavan is a non-recognised institution and thus the certificate on the strength of which they were found educationally qualified being found to be invalid their services were being terminated. In that, their very candidature was cancelled.

2. In paragraph 10 of the writ petition the writ petitioners have pleaded as under:-

"10. That after being declared successful in the written examination the petitioner was waiting for his appointment order for the said post, however on 02/02/2015 he received the order impugned herein whereby it was alleged that the university from which the petitioner had done his 10th standard was a fake university whose affiliation had been cancelled by the state of UP, however it is submitted that although the said assertion of Respondent No.2 would have been true but the same is not in consonance with the facts of the case for the reason that the affiliation of Gurukul University, Vrindavan had indeed been cancelled by the State of UP as communicated vide letter dated 30/04/2009 written by Secretary Secondary Education, State of Uttar Pradesh, however the same and only been done for degrees/examination of 10th standard conduct by the said University after 2008 while the petitioner had passed his 10th standard examination in the year 2006. True copy of letter dated 30/04/2009 written by the Secretary Secondary Education, Uttar Pradesh as well as the 10th standard certificate of the petitioner are annexed herewith and marked as Annexure P-6."

3. In the counter affidavit reply to para 10 of the writ petition has been merged with replies to paras 12 and 13. The composite reply reads as under:-

"In reply to paragraphs 10 to 13 of the writ petition, it is further submitted that during the scrutiny of recruitment dossiers of the candidates for the post of Constable/GD-2013 in CISF, by the Dossier Scrutiny Board, it is found by the board that the Matric Certificate issued from Gurukul Vishwavidyalaya, Vrindavan, Mathura submitted by the petitioner in support of his educational qualification for the recruitment of Constable/GD-2013 in CAPFs and Rifleman (GD) in Assam Rifles-2013 is fake educational certificate as per University Grants Commission, Bahadurshah Zafar Marg, New Delhi letter No.F.No.-7-3/97(MPC) dated December, 2011 regarding Press Release for "Precautions against Fake Universities/Vishwavidyalayas" letter No.F.7-3/2012(MPC) dated May, 2014 and letter No.F.7-3/2012 (MPC) dated June, 2015 and Govt. Gazette dated 18/05/2013 published by Govt. of Uttar Pradesh. Accordingly the present matter was referred to CISF HQrs New Delhi for taking decision in the matter. In turn FHQrs has directed the CISF 5th Res Bn, Ghaziabad vide message bearing No. (239) dated 28.01.2015 to cancel the candidature of the petitioner for the post of Constable/GD in CISF, as per the instructions issued earlier vide FHQrs message No. (2391) dated 13.10.2014. Accordingly the candidature of Roll No.3011535154 Arun Tomar S/o Shri Satender Tomar has been cancelled vide Sr.Commandant CISF 5th Res Bn Ghaziabad letter No.(2284) dated 02.02.2015 (which is to be read as 02/03/2015). It is also pertinent to mention here that in order to confirm the authenticity of certificate issued by Gurukul Vishwavidhyalaya, Vrindavan, Mathura, a written request was made to the Secretary, Mahdyamik Shiksha Parishad, Allahabad, Uttar Pradesh vide Sr.Commandnat CISF 5th Res. Bn. Ghaziabad Lr.No.(4252) dated 06.05.2015 which was sent through a representative i.e. Sub-Inspector/Exe from CISF 5th Rs Bn Indirapuram Ghaziabad. Accordingly, vide Secretary, Madhaymik Shikhya Parisad, UP, Allahabad letter No.Parisad-9/95 dated 08/05/2015, which is

supported by Govt. Gazette dated 18/05/2013 issued by the Govt. of Uttar Pradesh, copy of which is annexed herewith and marked as Annexure R/VII, it was clarified that the Adhikari Pariksha of Gurukul Vishwavidyalaya, Vrindavan, Mathura is not equivalent to High School Pariksha for any year. Thus, the action taken by the respondents is legal, valid and fully justified and warrants no interference by this Hon?ble Court in view of the detailed facts stated herein-above, which may be read as part and parcel hereof for the sake of brevity."

4. Now, there is no denial to the assertion made in paragraph 10 of the writ petition that the recognition granted was withdrawn after the year 2008 and that the petitioners had obtained the degree in question in the year 2006.

5. The reference in the counter affidavit to the gazette notification dated May 08, 2013 is sans the notification being filed. What has been filed is a letter dated May 08, 2015. The same is Annexure R VII. It throws considerable light on the issue. It reads as under:-

"Forwarded by:

The Secretary,

Secondary Education Board, Uttar Pradesh, Allahabad,

To,

The Office of Sr. Commandant,

Central Industrial Security Force,

5th Res. Battalion, Ghaziabad, Post - Indra Puram

Letter No. - Board - 9/95

Dated: 08-05-2015

Subject: Regarding equal class

Sir,

Regarding the aforesaid subject in reference to your letter E-32023/C.I.S.F./5th Res.Bat/RGD-13/2015/4252, dated 06-05-2015, it is informed that official examination of Gurukul Vishvidyalya, Brindavan, Mathura had been equivalent to High School Examination of Uttar Pradesh Secondary Education Board till 2008 with the provision that the said examination may not has been passed in parts along with English subject in more than one year. Here, the word "Parts" means supplementary examination.

Vide Administrative Order No. 500/15-07-2013-(139)/2005, dated 09-04-2013, the administration abolished even the aforesaid equivalence of official examination which had been recognised till 2008. Regarding the aforesaid, Notification No. Board-9/85 dated 10-05-2013 was published in the official Gazette by the Board Office for the information of General Public. (The copy

enclosed).

It is clear from aforesaid Notification that official examination of any year conduct by Gurukul Vishvidyalya, Brindavan, Mathura is now not recognised as equivalent to High School Examination of the Board.

Enclosure: As per above.

Yours sincerely,

Sd/illegible

08-05-2015 Dy.

Secretary (Board)"

6. Suffice it to state that the letter recognises the fact that the examination conduct by Gurukul Vishwavidyalaya Vrindavan was recognised and made equivalent to the High School Examination conduct by the UP Secondary Education Board till the year 2008 with the provision that the examination had to be passed in the same year and not that some papers were cleared in one year and some in the other. The recognition ensured till the year 2008. The last part of the letter creates a little confusion by recording the opinion of the sender of the letter that in view of the notification dated May 09, 2013 where equivalence was abolished the degrees issued by the Vishwavidyalaya are not recognised as equivalent to High School Examination conduct by the Board.

7. It is trite that a vested right cannot be taken away except by a law which is expressly made retrospective and must stand the scrutiny of law. The Board or the State of Uttar Pradesh did not invalidate degrees awarded by the Vishwavidyalayas in the past during the period the Vishwavidyalaya was recognised and degrees granted were given equivalence. The recognition was withdrawn in the year 2009.

8. When the petitioners took the examination in the year 2006 the Vishwavidyalas was recognised and equivalence was given to the degrees awarded by it. It is not the case of the respondents that the petitioners cleared the examination in more than one year.

9. The writ petitions are allowed. Impugned communications dated February 02, 2015 are quashed. CISF shall proceed ahead in the matter of giving employment to the petitioners as per law. If petitioners cleared the medical examination and are entitled to be offered appointment as Constable in CISF, letter offering appointment shall be issued to them. The petitioners would be entitled to consequential benefits of seniority as per their merit position but no back wages would be paid to them.

10. Compliance be made within 4 weeks from today.

11. No costs.