

(1997) 01 DEL CK 0009

In the Delhi High Court

Case No : Civil Writ Petition No's. 3136, 3181 and 3808 of 1996

Ashish Manghani

APPELLANT

Vs

Principal, Sri Guru Gobind Singh College of Commerce

RESPONDENT

Date of Decision : 17-01-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 2 AD 768 : (1997) 40 DRJ 434

Hon'ble Judges : Chander Mohan Nayar, J

Bench : Single Bench

Advocate : R.K. Saini, S.K. Luthra and A. Mariaputham, for the Appellant;

Judgement

C.M. Nayar, J.

(1) The present judgment will dispose of Civil Writ Petition Nos.3136/96, 3181/96 and 3808/96. The petitioners in all these cases have prayed for permission to migrate from one college to another in Delhi University.

(2) In C.W.No.3136/96 the petitioner seeks migration from Sri Guru Gobind Singh College of Commerce to Hans Raj College, respondent No.3. The petitioner in C.W.P.No.3181/96 desires to migrate from P.G.DAV College to Ramjas College. Similarly, petitioner in C.W.No.3808/96 seeks migration from Maitreyi College to Venkateshwara College. In all these cases the petitioners have already been granted "No Objection Certificates" to the migration by the colleges where they intend to study. Their applications for migration have, however, been rejected by the colleges from where they seek to migrate.

(3) In the first petition, the petitioner is a student of B.Com (Hons) in respondent No.1 college and has completed the first year of the course securing 60 per cent marks. The necessary certificate to migrate has not been granted to him by that college, though respondent No.3 is willing to admit him. In C.W.No.3181/96 the petitioner is a student of B.A.(Hons) Economics 1st year in respondent No.1 college and he desires to migrate to respondent No.3 college. Necessary "No

Objection Certificate" has been withheld in this case also. In C.W.No.3808/96 the petitioner is a student of B.A.(Hons) Sociology and successfully completed the first year course by obtaining 54.5 per cent marks. She seeks migration to respondent No.3 college. The necessary permission has been withheld in this case also.

(4) The learned counsel for the petitioners contend that the matter is squarely covered by the Division Bench judgment of this Court in C.W.No.3089/95 and other connected petitions which is filed as Annexure P-3 to the first petition. The stand of the University of Delhi is that the college or University can not bind or compel a student to study in a particular college if the student seeks migration elsewhere. Mr.S.K.Luthra, who appears for respondent No.1 as well as for respondent No.3 in the first petition has vehemently argued that this is a matter of discretion and the students do not possess vested rights to migrate from one college to another. At best their applications can be considered and they may be accepted or rejected by taking into view the facts of each case. He, however, does not dispute that the matters are squarely covered by the judgment of the Division Bench and merely argues that the points raised in these petitions do require further consideration and the same may be referred to a Larger Bench. Incidentally, Mr. Luthra had also argued the matter before the Division Bench and his plea was rejected. He now appears for respondent 3 college which has already issued "No Objection Certificate" to the petitioner.

(5) Various contentions which have again been raised before this Court have been repelled by the Division Bench and no cogent grounds have been cited to make out a case for reference of the matter to a Larger Bench. The learned Judges have carefully analysed the matter and interpreted the relevant Ordinance Iv to support their conclusions. The operative part of the judgment reads as follows:

"THOUGH the anxiety of the Staff Council and the College to maintain and improve the academic standard of the college as also their anxiety to maintain the student teacher ratio, may be appreciated but at the same time, we find it difficult to accept the contention that in order to achieve the said objects, the students can be compelled against their desire and wish to continue study in a particular college. Undoubtedly no student has any vested right to seek migration but the real question in these cases is not about the vested right of the students, but is about the legality of the stand of the college from where migration is sought. Can `No Objection Certificate" be refused to a student when the College to which admission is sought, is willing to give admission to that student. The answer to this question has to be in favor of the student. Where a student with a view to improve his career wants to join another college, which student feels is better and thinks that he would be able to make a better mark in another college to deny migration to such a student on the grounds stated by the college from which migration is sought, would be unjust and unreasonable. The grant of permission to migrate may be discretionary but the discretion is required to be

exercised on sound legal principles and by adopting just and reasonable approach. Ordinarily this court may not interfere in exercise of discretion in academic matters but where the career of students is involved and the approach of college is not just and reasonable, the court has to come to the aid of aggrieved students. As already noticed above, the stand of the University and the College to which migration is sought is also that students cannot be compelled to study in a particular college. further apart from the decision of the Staff Council, no other provision has been brought to our notice barring migration. On the other hand Ordinance Iv, as noticed above, specifically permits migration. It may also be noticed that while operating aforesaid Ordinance in practice the student who is to apply for No Objection Certificate from which he seeks migration, would do so only when he has been ensured admission in any other college and, Therefore, the question of violation of Ordinance-IV does not arise."

(6) The learned counsel for the petitioner in C.W.No.3136/96 has also brought to my notice that respondent 1 college has given `No Objection Certificates" to two other students who chose to leave the college. The learned counsel for respondents have not brought to my notice any consideration while dealing with the cases of the petitioners as to why their applications could not be accepted. The discretion cannot be exercised arbitrarily and the refusal to grant `No Objection Certificate" must be supported on cogent grounds.

(7) For the aforesaid reasons, the present petitions are allowed. Rule is made absolute and action of the respondents in refusing to grant `No Objection Certificate" is quashed. The same shall now be issued to the petitioners in each case forthwith. This will, in any case, be subject to the availability of seats to which the migration is sought by the petitioners. There will be no order as to costs.