

(2001) 11 JH CK 0002
In the Jharkhand High Court
Case No : Writ Petition (C) No. 4102 of 2001

Astha and Another

APPELLANT

Vs

Ranchi University and Others

RESPONDENT

Date of Decision : 26-11-2001

Acts Referred:

Citation : (2001) 11 JH CK 0002

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : A.K. Sinha, for the Appellant; M.K. Laik and A.K. Mehta, for the Respondent

Final Decision : Allowed

Judgement

1. This writ petition has been preferred by two petitioners namely. Astha and Vinita Singh, for a direction on respondents to issue certificates and provisional certificates, they having passed the Final B.Tech. Examination from Ranchi University, held in the year, 2000.

2. To appreciate the case, it is necessary to state certain relevant facts, relating to petitioners and their admissions in B.Tech. course. Petitioner No. 1 Astha passed Class X examination in 1st Division with 80% marks in the year, 1994 and Class XII examination in 1st Division with 66% marks in the year 1996.

Petitioner No. 2 Vinita Singh also passed Class X examination in 1st Division with 87% marks in the year. 1993 and Class XII examination in 1st Division with 70% marks in the year, 1995.

3. There being good academic career, they appeared in 1996 Combined Entrance Engineering Examination and both were declared successful. After counseling for opting the Engineering Colleges, held on 12th August, 1996, both of them having opted for RIT, Jamshedpur, were admitted in the 1st year Engineering Course in 1996.

4. Both the petitioners appeared in the 1st Year B.Tech. Examination in the year, 1997. Petitioner No. 1 Astha secured 1st Class whereas petitioner No. 2 Vinita Singh secured 1st Class with distinction.

In the meantime, a number of writ petitions being CWJC No. 7666 of 1996 and others were preferred before Patna High Court by Pramod Kumar Dukania and others for cancellation of the result of the Combined Entrance Engineering Examination, 1996 on the ground of manipulation and use of unfair means in the examination and also for revaluation of their answer-sheets and on re-valuation to declare them as successful candidates. Those petitioners pleaded that they have good academic records and did very well in the examination but when the result was published, they did not find their names in the list of successful candidates and on enquiry, found that the bungling at a large scale was done in the examination and the then Minister. Science & Technology, Mr. Brij Bihari Prasad in connivance with the co-convenor Dr. R.C. Das "Vikal" manipulated the things to advance the cause of the candidates numbering about 200 (300-600) for extraneous considerations. The aforesaid writ petitioners (CWJC No. 7666 of 1996 and others) were disposed of by a common judgment, reported in 1997 (2) BLJ 488 Pramod Kumar Dukania and Ors. v. State of Bihar and Ors. The Court formed its opinion and view that each of the proven circumstances, as discussed in the said case, leads to an irresistible conclusion that deep-seated fraud and manipulation were done in the CEE Examination. 1996, which benefited the private respondents of the said case. The manipulation and fraud were done with the active connivance and co-operation of the co-convenor with full blessing and support of the Minister. Science & Technology. Thus, selection of 245 candidates, who were private respondents No. 5 to 249 and their admissions in different Engineering Colleges were held to have vitiated and they were cancelled. The case was sent back to the Central Bureau of Investigation, Patna (CBI) with a direction to investigate the matter and to submit a report within three months for appropriate direction regarding prosecution of the persons, found to have been indulged in such activities.

5. The aforesaid judgment, delivered by the learned Single Judge, was challenged before a Division Bench of Patna High Court in LPA No. 876 of 1997 (Nitin Kumar & Ors.) and a number of other Letters Patent Appeals. All the aforesaid LPA were heard by a Division Bench and disposed of by common judgment and other dated 22nd May. 1998. The Division Bench held and observed as follows:

"In the instant case only after the order passed by the learned Writ Court, the crime is being investigated by the CBI and, therefore, it can not be said that Section 6 of the Delhi Special Police Establishment Act creates a legal impediment. Thus investigation's not suffering from legal infirmity.

We have already observed in the preceding paragraphs that in pursuance of the direction of the learned Writ Court, though investigation by the CBI is in progress but the admissions of the examinees have been cancelled and yet the

investigation has not culminated by filing a charge-sheet against the examinees. Minister or other officials said to have been involved in this matter. Therefore, ultimately if in investigation nothing is found against the examinees so as to make them liable for prosecution, in our opinion, in that event, possibility of considerable irreparable harm to them can not be set back. Hence, in order to prevent that irreparable harm, in our view, it will be desirable in the interest of justice, equity and good conscience that till the truth is investigated and finally not revealed by the CBI by submitting charge-sheet against the concerned persons, the admission of the examinees, so cancelled is liable to be remedied by restoring the status-quo ante as it was on 20.8.96 by the interim order passed by the Writ Court on that day meaning thereby that the admission of the concerned students in the respective Colleges shall be subject to the presentation of charge-sheet and taking of cognizance by the Court concerned by framing charges against them.

Thus, as a result thereof, the admission of the concerned examinees is relegated to the stage of the interim order dated 20.8.96 passed by the Writ Court and shall continue till the charge-sheet is submitted against them are pursuant to the charge-sheet, charges are framed by the Court concerned against them.

However, it is made clear that during the course of investigation, the concerned examinees and all other concerned persons shall co-operate with the investigation and shall make themselves available to the Investigating agency for interrogation etc. If and when required by them.

"With the above directions, these appears are finally disposed of. However, there shall be no order as to costs.

6. In the light of the Division Bench decision, the students like petitioners were admitted in B.Tech. Engineering course in different Engineering Colleges, including PIT. Jamshedpur in pursuance of CEE Examination, 1996 continued to pursue their engineering studies. They were allowed to appear in the successive examinations and many of them having been declared successful were promoted to the next higher year and persuaded their studies.

7. Both the petitioners were allowed to complete 2nd year course, appear in the 2nd year examination in the year, 1998 and were declared successful, having secured 2nd Class and 1st Class marks respectively. They were also allowed to be admitted in the 3rd year class, and were allowed to appear in the 3rd year examination, held in the year. 1999 and both of them came out successful with 1st Division. Subsequently, they were also admitted in the 4th year/Final year class and were also allowed to appear in the Final Year Engineering Examination held in the year. 2000 whereinafter while petitioner No. 1 became successful with 1st Division, petitioner No. 2 became successful with 1st Division with Distinction. The petitioners having completed their B.Tech. course, having successfully completed examinations, applied for provisional certificates of B.Tech. examination, but neither the University nor the institute (RIT.

Jamshedpur) Issued even the provisional certificates, for which the petitioners sent a legal notice on 20th July, 2001. The respondents thereafter replied to the legal notice by letter dated 18th August, 2001 and informed the petitioners that without any direction of CBI or LPA Bench, they can not issue provisional certificate.

8. In the meantime, on re-organisation of the State in terms with the Bihar Re-organisation Act, 2000 the RIT, Jamshedpur and Ranchi University, both having fallen within the territorial jurisdiction of the Jharkhand High Court, the petitioners has to prefer this writ petition before this Court for direction on the respondents to provide them with certificates/provisional certificates, they having passed B.Tech. examinations. The respondents were allowed time to file counter affidavit but they did not choose to file any affidavit. Mr. A.K. Mehta counsel for the RIT, Jamshedpur, and Mr. N.K. Laik, counsel for the Ranchi University, submitted that because of pendency of enquiry by CBI and there being no specific direction given by the appellate Court in LPA Nos. 876 of 1997 and analogous east's, though the petitioners have completed studies and have come out successful in the examination, the certificate/ provisional certificates have not been issued in their favour.

9. From the facts aforesaid, it will be evident that the admission of the students, which were cancelled by the "earned Single Judge vide its judgment passed in the case of Pramod Kumar Duhania (supra) the cancellation of admission was restored by the Division Bench vide judgment dated 22nd May, 1998. The admissions of the concerned examinees including the petitioners, were relegated to the position as was existing on 20th August, 1996 and they were allowed to continue and pursue their studies till the charge-sheet is submitted against them and pursuant to the charge-sheet charges are framed by the Court concerned against them.

10. Admittedly investigation by the CBI is continuing and Special Case No. 23 of 1997/PC 43 of 1997. instituted against Sri R.C. Das "Vikal" and others is still pending. It is stated at bar that no cognisance has been taken or charges have been framed against any of the students.

11. In the facts and circumstances as a mere prima facie allegation were found against certain persons including some of the students, who were admitted in B.Tech. course 1996 and no specific finding given by any competent Court of law and taking into consideration that the students have come out successful in every year in one or other B.Tech. examination, including the final B.Tech. Examination, in the interest of Justice and equity it is desirable to direct the respondents to publish the result of the petitioners and to hand over the successful candidates the certificates/provisional certificates of B.Tech. examination, which will be subject to the decision of the CBI Court, as may be decided in future in Special Case No. 23 of 1997/PC No. 43 of 1997. The respondents are directed accordingly.

12. The writ petition is hereby allowed.

13. Writ allowed.