
(2009) 08 AHC CK 0159
In the Allahabad High Court
Case No : Writ Petition No.7793 (M/B) of 2009

Citizen Federation For Education	Vs	APPELLANT
State of U.P.and Others		RESPONDENT

Date of Decision : 12-08-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 08 AHC CK 0159

Hon'ble Judges : S.P.Mehrotra, J and Anil Kumar, J

Final Decision : Dismissed

Judgement

1. The present writ petition has been filed making the following prayers:

(I) Issue a writ order or direction in the nature of mandamus commanding the opposite parties concerned to grant University Affiliation to the above mentioned technical institutions who have been granted approval from the AICTE as provided in the AICTE'S List Dated 14.7.2009 Providing Status of Approval for AICTE Approved Engineering & Technology Institutions for the year 200910, for academic session 200910, for various technical and professional courses so that the students at large may get an opportunity to take part in the counselling and avail an opportunity to claim a seat for technical courses in those Colleges.

(II) Issue a writ order or direction in the nature of mandamus commanding the opposite parties concerned to allow the above mentioned technical institutions to include their names in the list of private institutions who have been allowed in the counselling for allotment of candidates for academic session 200910, for various technical and professional course, so that the eligible students who have cleared the State Engineering Entrance Examination 2009 may get an opportunity of admission into these institutions.

(III) Issue a writ order or direction in the nature of mandamus commanding the opposite parties to allow the above mentioned technical institutions to provide an opportunity to the students who have cleared the State Entrance examination

and take admission of the students for academic session 200910, strictly adhering to the norms and regulations provided in the Brouchers issued regarding management/lapsed seat by the Chairman, U.P. State Entrance Examination, 2009.

2. The petitioner claims to be a Society registered under the Societies Registration Act, 1860 which has framed Byelaws, Rules and Regulations, copy of the registration certificate together with the byelaws of the Society has been filed as Annexure1 to the writ petition.

3. In paragraph2 of the writ petition, it is inter alia, averred that the present writ petition is being filed with the larger interest of the Society primarily the students whereby a large number of technical institutions have not been given the affiliation by the U.P. Technical University (hereinafter referred to as "UPTU") for various technical and professional courses for which letter of approval have already been written by the All India Council for Technical Education (herein after referred to as "AICTE"). It is inter alia, further averred in the paragraph2 of the writ petition that the respondent No.2 (UPTU) has declared the programme for counselling and the same is going on for the purpose of admission in various technical and professional courses. It is, inter alia, further averred in para2 of the writ petition that since the affiliation has not been given by the respondent No.2 (UPTU) to the large number of technical institutions, which is mere formality, irreparable loss and injury is going to be caused to the large number of aspiring and hopeful students of getting admission in the said institutions.

4. We have heard Sri Akhilesh Kalra, learned counsel for the petitioner, learned Standing Counsel appearing for the respondent No.1 and Sri Lalit Shukla, learned counsel appearing for the respondent Nos. 2 and 3 and perused the record.

5. It is submitted by Sri Akhilesh Kalra that the petitioner's society is spousing the cause of the students as they are being deprived of admission in various technical institutions on account of action/inaction on the part of the respondent Nos.1, 2 and 3.

6. Sri Kalra has placed reliance on the decision of the Supreme Court in the matter of Rajiv Ranjan "Lalan" (VIII) and another v. Union of India, reported in (2006) 5 SCC 613, Paragraph 77 of the said judgment is quoted hereunder;

?The present petitions are filed on the alleged acts or misfeasance. The test which one has to apply to decide the maintainability of the PIL concerns sufficiency of the petitioner's interest. Under this test it is necessary to consider the subject matter to which PIL relates. It is wrong tin law for the court to judge the applicant's interest without looking at the subject matter of his complaint. If the petitioner shows failure of public duty, the court would be in error in dismissing his PIL.?

7. Sri Lalit Shukla, learned counsel for the respondent Nos.2 and 3 submits that the present writ petition at the instance of the Society is not maintainable as the

petitioner's Society is not the person aggrieved by the alleged action/inaction on the part of the respondent Nos.1, 2 and 3. The grievance, if any, may be raised by either the technical institutions concerned or by the students who are deprived of admission in various technical institutions.

8. We have considered the submissions made by the learned counsel for the parties.

9. From a perusal of the Writ Petition, we are unable to find any indication regarding activities of the petitioner's society in regard to the of larger interest. We again unable to find the public interest sought to be spoused by the society by filing the present writ petition. The petitioner's society is merely trying to raise before the Court individual grievance and not of the Technical University or of students.

10. A perusal of the aims and objects of the petitioner's society as contained in memorandum of association (Annexure1 to the writ petition) shows that the cause sought to be raised in the present writ petition is not covered within the ambit of aims and objects of the petitioner's society.

11. In the circumstances we are of the view that the petitioner's society has failed to show locusstandi to file the present writ petition.

12. In Rajiv Ranjan "Lalan" (VIII) case (supra) their Lordships of the Supreme Court has held as under:

?The present petitions are filed on the alleged acts or misfeasance. The test which one has to apply to decide the maintainability of the PIL concerns sufficiency of the petitioner's interest. Under this test it is necessary to consider the subject matter to which PIL relates. It is wrong in law for the court to judge the applicant's interest without looking at the subject matter of his complaint. If the petitioner shows failure of public duty, the court would be in error in dismissing his PIL.?

13. The Supreme Court has thus, laid down that the test which one has to apply to decide the maintainability of Public Interest Litigation concerns sufficiency of the petitioner's interest. Under this test it is necessary to consider the subject matter to which the Public Interest Litigation relates?.If the petitioner shows failure public duty, it will be erroneous to dismiss the Public Interest Litigation.

14. As noted above, the petitioner's society has failed to show any interest much less interest in regard to the subject matter of the present Writ Petition. The subject matter of the present writ petition is even not covered within the ambit of the aims and object of the petitioner's society as contained in its memorandum of association.

15. In these circumstances, in view of the proposition of the law laid down in the above decision, the present writ petition filed by the petitioner's society is not maintainable.

16. In consequence of the aforesaid, the writ petition is liable to be dismissed.

17. The writ petition is accordingly dismissed.

(Petition dismissed)