
(2010) 05 AHC CK 0259

In the Allahabad High Court

Case No : Writ Petition Nos. 3865 (MB), 3889 (MB), 3893 (MB), 3895 (MB), 3897 (MB), 3898 (MB) and 3900(MB) of 2010

Committee of Managements Duja Devi Mahavidyalaya

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 28-05-2010

Acts Referred:

Citation : (2010) 05 AHC CK 0259

Hon'ble Judges : Pradeep Kant, J and Shabihul Hasnain, J

Final Decision : Disposed Of

Judgement

Pradeep "Kant and Shabihul Hasnain, JJ.—This is a bunch of writ petitions filed by private and unaided institutions, who have been duly granted recognition by the NCTE and affiliation by the concerned University, for running B.Ed. Course.

2. The institutions are aggrieved by the action of the respondents in not allowing the students admitted within the sanctioned strength, to appear in the examinations for the Academic Session 200607, for the reason that the student were admitted by the institutions themselves, on the basis of the merit obtained in the last qualifying examination.

3. Attention of the Court has been drawn to the orders passed by the Apex Court, wherein similar controversy engaged the attention of the Court in bunch of Special Leave Petitions, namely, Special Leave to Appeal (C) No. (s) 1286412867/2008 being the leading petitions, and .the Court passed the following orders:

"The stand of the State of Uttar Pradesh and the University have statec that they are going to hold examination for the students admitted in 200506 of Purvanchal Vishwavidyalaya and in 200607 of Agra and Meerut Universities. In view of this stand, learned Counsel appearing on behalf of the petitioners are permitted to withdraw these petition and the same are accordingly disposed of leaving the question law open to be decided in an appropriate case."

4. A Division Bench of this Court in Writ Petition No. 6219 (MB) of 2009, Pt. Kundan Lal Shukla Mahavidyalaya v. State of U.P. and others, had issued directions for permitting so admitted students to appear in the examinations but on a reference being made to the Full Bench in the case of Tuples Education Society and another v. State of U.P. and others, decided (Writ Petition No. 34114 of 2007) on 31.3.2008, the Full Bench did not allow the appearance of the students in the examinations. The matter was taken to the Apex Court where the State Government gave an affidavit that they were willing to hold the examination of all these students. It was thereafter that the aforesaid order was passed by the Supreme Court.

5. Sri S.C. Dhasmana appearing for the University, opposing the prayer made, submitted that in the instant case the University is not willing to give any assurance or consent nor any affidavit to allow the students so admitted by the institutions to appear in the examinations, whereas before the Apex Court such an affidavit was filed by the State and the Universities who were before the Supreme Court also agreed.

6. Submission is that in the absence of any consent of the University, no direction can be issued for allowing the students to appear in the examinations.

7. The next argument in opposition is that before the Supreme Court, there were only three Universities, namely, Agra, Meerut and Purvanchal for whom the State had agreed for holding the examinations, as such also the present colleges cannot claim the benefit of the order passed by the Apex Court.

8. A plea has also been taken that a number of students of various colleges, who were affiliated to Rohilkhand University, a University which was not before the Supreme Court, have filed a Writ Petition bearing No. 28718 of 2008, SM. College, Chandausi and others v. M.J.P. Rohilkhand University, Bareilly and others, seeking declaration of their results, but their petitions were dismissed vide order dated 3.11.2009 by a learned Single Judge and, therefore, the present students who have pursued their courses in the institutions, cannot be allowed to appear in the examinations.

9. We have considered the aforesaid arguments and we find that undisputedly the students of the present institutions have been admitted in the same manner, as were admitted in the colleges affiliated to Agra, Meerut and Poorvanchal Universities.

10. Learned Counsel for the University also does not dispute the aforesaid fact.

11. It is also a fact that after the Full Bench Judgment in the case of Tuples Education Society, the matter was taken to the Apex Court, where the State Government gave an undertaking that they were willing to hold the examinations of all such students. The Apex Court, therefore, passed the aforesaid order leaving the question of law open, which was considered by the Full Bench.

12. After passing of the aforesaid orders, the institutions affiliated to Rohilkhand

and Bundelkhand Universities, also prayed for similar benefit which was not being extended to them by their Universities, therefore, they filed writ petitions before this Court. The colleges affiliated to Rohilkhand University filed Writ Petition No. 5671 (MB) of 2008, Bhagwant Singh College, Moradabad, through its Secretary and others v. Chancellor, M.J.P. Rohilkhand University and others, and those who were affiliated to Bundelkhand University, filed Writ Petition No. 2417 (MB) of 2007, Bansidhar Mahavidyalaya and two others v. State of U.P. and others.

13. Similar objections and pleas were taken by the University in those matters, wherein after considering the pleas raised, this Court allowed the same benefit to the students, who were admitted in the colleges affiliated to Rohilkhand University and also Bundelkhand University. The matter of Rohilkhand University was decided on 11.2.2010" and that of Bundelkhand University was decided on 16.3.2009.

14. The Court took the view that dismissal of the writ petition filed by S.M. College, Chandausi and others by the learned Single Judge, wherein an observation was also made that the order passed will not preclude the State Government and the Rohilkhand University from considering the case of the students admitted to B.Ed, course as has been done by Agra, Bundelkhand and Meerut Universities, but despite the time being granted, the University did not give any positive response nor the results were declared.

15. The Court also considered that the Apex Court has left the question of law open, which was considered by the Full Bench and that it was not necessary for the University to give any consent for holding the examinations of these students but if they were entitled to the said benefit, they could not be denied the same either by the State Government or by the University.

16. The Court also took into consideration the plea of the University that since before the Apex Court only three Universities were present and not the University in question, and observed that the plea of the State Government is to be outrightly rejected for the reason that before the Apex Court, it was not the Universities, who had furnished the affidavits and expressed their desire that too by passing a resolution, that they will take the examination of the students of the said session but State Government itself had given the affidavit, which persuaded the Apex Court to pass the order aforesaid.

17. Since in the case of Rohilkhand University, the examinations were already held but the result was not declared, the Court made the following observations:

"The process of admission and the examination in which the students have already appeared are one and the same, therefore, nondeclaration of the results of these students who are similarly placed will be greatly prejudicial to their career. Because some Universities and the present University has not passed any resolution to that effect, the fate of the students cannot be jeopardized in such an arbitrary manner. The students were admitted by the colleges to the

knowledge of the University, they deposited the full fee, attended the full course and also appeared in the examinations, therefore, they have a right to get their results declared. Further, in the absence of any distinction having brought to the fore between the students of the present colleges and the students who were admitted by the colleges affiliated to Agra, Meerut and Purvanchal Universities and also of the Bundelkhand University, we do not find any good reason for not issuing a direction for the declaration of their results immediately.

We, therefore, dispose of the writ petition with a direction that results of the students for the Academic Session 20062007, of the petitioner colleges shall be declared forthwith and their marksheets shall be handed over to the students."

The case of Rohilkhand University was also on the same footing as of the present institutions.

18. We thus, do not find any ground for not allowing the benefit of the order passed by the Apex Court referred to above, and the orders passed by this Court in the matter of institutions affiliated to Rohilkhand and Bundelkhand University, which Universities were not before the Apex Court and wherein also the State Government had not issued any order for holding the examinations of the students of such institutions nor there was any resolution of the University for the aforesaid purpose.

19. We also take notice of the fact that almost all the other Universities have held the examination aforesaid, allowing the similarly admitted students to clear the course and, therefore, also there appears to be no reason for the present University not to hold the examinations.

20. Since the case of the petitioner institutions is identical and similar to that of Rohilkhand University and Bundelkhand University, we dispose of the writ petitions, with a direction that the students admitted by these colleges shall be allowed to appear in the examinations for the Academic Session 200607.

21. Since the learned Counsel for the University says that the examinations for the Academic Session 200607 have been held long back, we are of the view that the educational career of all those students who have not been allowed to appear in the examinations for no fault of their own, cannot be marred because of the litigation which ensued in between and, therefore, we direct that the University will hold supplementary examination of all such students of all the affiliated colleges, within a reasonable time, preferably within next two months.

22. We may clarify that while allowing the students to appear in the examination, the University will ensure that they have fulfilled all the other conditions of eligibility, except the manner in which the admissions have been made.

23. The writ petitions are disposed of accordingly. Decided accordingly.