
(2006) 04 AHC CK 0110

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 48818 of 2005

Girraj Kisore and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 26-04-2006

Acts Referred:

Citation : (2006) 7 AWC 7317

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : A.K. Umrao, for the Appellant; C.S.C., for the Respondent

Final Decision : Allowed

Judgement

Rakesh Tiwari, J.—Heard counsel for the petitioner and learned Standing Counsel.

2. The State Government has established training centers for providing vocational training to the eligible candidates. These are known as Industrial Training Institution (I.T.I.) of which the Principal is Head and the Administrative Authority.

3. In every I.T.I. Institution seats are sanctioned on the basis of availability of place, workshop and Instructors with the approval of the Director General Training and Employment at National Basis. The minimum qualification for admission as a Trainee in the I.T.I. initially was High School with Science. This qualification has enhanced up to the Intermediate with Science and Math subjects similar to the Diploma Holders. The trainees, who are successful in their training, are awarded a certificate of Craftsman as other technical colleges awarded diploma. The training course is of two years. During the training, the trainees are also provided stipend and scholarship. The expenditure increases in training and in distribution of stipend being born by the State Government. The Instructors and Principal of the I.T.I. are also the employees of the State Government.

4. The examination for admission for trainees was conducted by I.T.I., Agra in which the petitioners were selected for various trade courses as Electrician, Turner, Fitter, Welder, Draft man and Surveyor etc.

5. When the petitioners almost completed their two years of training, were given admit cards for appearing in the final examination, they were informed that they had been admitted by the then Principal putting a seal having facsimile signature hence their admission was not in order. The Principal, however, by his letter dated 21.4.2005 informed the Director of Training and Employment, U.P. Lucknow about this fact and requested to adjust the trainees on the basis of admission taken by the then Principal by using facsimile signature, but no action was taken by the Director, as such the petitioners approached this Court by means of the aforesaid writ petition with the following prayers:

A. To issue a writ order or direction in the nature of certiorari, to quash the notice/order dated 22.6.2005 and 24.6.2005 (Annexure No. 5 and 7) to the writ petition;

B. To issue a writ order or direction in the nature of mandamus commanding the respondents to allow/permit the petitioners in N.C.V.T. EXAMINATION scheduled for be held on 21.7.2005 and subsequently to declare the result of the petitioners.

C. To issue any other writ order or direction which this Hon''ble court may deem fit and proper under the circumstances of case;

D. To award the cost of the writ petition in favour of the petitioner.

6. The Court by its order dated 19.7.2005 permitted the petitioners to appear in the N.C.V.T. and S.C.V.T. examinations of the year 2005 conducted by the respondents provisionally. It was also provided in the interim order that the result of the petitioner in respect of the aforesaid examination shall not be declared without leave of the Court,

7. Counter affidavit has been filed by the Standing Counsel on behalf of respondent Nos. 1 to 5. In paragraph 4 and 11 of the counter affidavit it has been averred that the seats in the I.T.I.'s are fixed by the Government of India and the students are given admission according to the availability of the seats. It is also averred in the aforesaid paragraph that the then Principal had admitted the students much in excess of the number of seats available, hence the fee, which has been deposited by the I.T.I. was not valid and their admission is contrary to the rules. It is further averred that inquiries were made by the Regional Joint Director of Education and action against the Principal of the college and the concerned authorities is being taken.

8. It is apparent from the averments made in the counter affidavit as well as from the arguments of the Standing Counsel that the Principal was Government Employee and the blame lies at his feet. There was no fault of the petitioners who were innocent and had been taken admission in the courses offered by the

I.T.I. They have already undergone two years vocational training after having paid fees under legitimate expectations that that after training they would get employment. Since in the counter affidavit there is no allegation against the students, they cannot be penalised merely because they had taken admission in the college in good faith unknown to the misdeeds of the Principal. In the circumstances, they shall be permitted to appear in the examination. If the State Government has no control over its employees, the petitioners cannot be blamed or penalised for it after completion of training of 2 years. Their future cannot be put in jeopardy for the reason that the admission was given by the then Principal of the I.T.I. in excess of seats available.

9. For the reasons stated above, petition is allowed. The respondents are directed to declare the result of the petitioners within a period of one month. If they are successful, certificate may also be issued to them within two months thereafter. Consequences to follow.