
(2018) 07 UK CK 0060
In the Uttarakhand High Court
Case No : Special Appeal No. 531 of 2018

Guru Ram Rai University Patel Nagar & others	APPELLANT
Vs	
State of Uttarakhand and others	RESPONDENT

Date of Decision : 11-07-2018

Acts Referred:

Uttarakhand Unaided Private Professional Education Institutional (Regulation of Admission and Fixation of Fee) Act 2006 — Section 31

Citation : (2018) 07 UK CK 0060

Hon'ble Judges : K.M. JOSEPH, C.J;SHARAD KUMAR SHARMA, J

Bench : Division Bench

Advocate : Jitendra Chaudhary, Paresh Tripathi, Shailendra Nauriyal

Final Decision : Disposed Off

Judgement

K.M. JOSEPH, C.J. (ORAL)

SHARAD KUMAR SHARMA, J.

1. Appellants are the petitioners in the writ petition. The impugned order reads as follows:

â??Mr. Jitendra Chaudhary, Advocate for the petitioners.

Mr. K.N. Joshi, Deputy Advocate General for the State/respondent nos.1 to 3.

Mr. Shailendra Nauriyal, Advocate for respondent no. 4. Learned counsel for the petitioners sought an interim relief from this Court. This Court does

not find any occasion to interfere in the matter, as an interim measure.

Consequently, stay application (CLMA No.8563 of 2018) is rejected. Three weeksâ?? time is granted to the respondents to file counter affidavit.

Petitioners may file their rejoinder affidavit within a period of three weeks thereafter.

List this case after seven weeks in the daily cause list. Meanwhile, the petitioners shall only charge the fee as per the amended Rules as according to

the State Counsel as well as learned counsel for respondent no. 4, the Rules prescribe for a fee as per the directions of the Honâ??ble Apex Court in

the case of T.M.A. Pai Foundation v. State of Karnataka, reported in (2002) 8 SCC 481 and P.A. Inamdar and others v. State of Maharashtra and

others, reported in (2005) 6 SCC 537.â??

2. A perusal of the impugned order would show that the Interim Relief Application filed by the appellants has been rejected. Furthermore, the learned

Single Judge has also directed that the appellants will have to take the fees as provided in the order.

3. Briefly put, the case of the appellants appears to be as follows:

The first appellant is a University established by the State. The second appellant is a College, which is being run by the first appellant, which is in self-

financing mode. The controversy is as to what fee is to be collected from the M.B.B.S students, who are admitted to the second appellant-college.

4. According to the appellants, the matter is governed by the Act, under which the first appellant-University has been constituted. Under Section 31 of

the said Act, it is the case of the appellants that the appellants have formulated Rules, which provide for the manner for calculating the fees. It is their

further case that the Rules were submitted to the Government but no decision was taken within a period of 2 months from the date of the receipt of

the Rules and, therefore, under Section 31 of the Act, the Rules, as submitted by the appellants, must be deemed to have been approved by the

Government. It is after there is a deemed approval within the meaning of Section 31 that the impugned proceeding dated 06.06.2018 had been initiated,

according to which, the fees will be, as fixed by the Committee under the Uttarakhand Unaided Private Professional Education Institutional

(Regulation of Admission and Fixation of Fee) Act 2006.

5. This is a case, where the pleadings are not complete as is evident from the impugned order itself. The matter is to be considered by the Court. The

question raised by the appellants has to be considered by the Court.

6. We heard Mr. Jitendra Chaudhary, learned counsel on behalf of the appellants; Mr. Paresh Tripathi, learned Chief Standing Counsel for the

State/respondent Nos. 1 to 3 and Mr. Shailendra Nauriyal, learned counsel on

behalf of respondent No. 4.

7. After hearing the learned counsel also, we do not think that we need to interfere with the order as such, but, at the same time, we would think that

the interest of justice requires that we should leave it open to the appellants to obtain an undertaking from the students, who stand allotted to the

appellant-college to the effect that the collection of the fees, as directed, will be subject to the final decision in writ petition, from which the Appeal

arises (Writ Petition (M/S) No. 1789 of 2018). Accordingly, we dispose of the Appeal as follows:

We make it clear that it will be open to the appellants to obtain an undertaking from the students, who are allotted to the appellant college, or from

their guardian in the form of an affidavit to the effect that the fees being collected from them in present will be subject to the result of the Writ Petition

(M/S) No. 1789 of 2018 and they will abide by the decision in the said writ petition.

8. No order as to costs.

9. Let certified copy of this order be issued today itself.