

(1992) 08 AHC CK 0011

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 11295 of 1990

Gyan Chandra

APPELLANT

Vs

Govind Ballabh Pant University and Others

RESPONDENT

Date of Decision : 18-08-1992

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (1992) 4 AWC 122 Supp

Hon'ble Judges : R.A. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.A. Sharma, J.—Being aggrieved by order dated 30-1-1990, passed by the Respondents refusing to readmit him in first semester of 1989-90, Petitioner has filed this writ petition. The main ground in support of the writ petition is that of discrimination and pleadings in support thereof have been made in paragraphs 9 & 10 of the writ petition. The University authorities have filed counter affidavit. The Petitioner has filed rejoinder affidavit in reply thereto. Sri Dinesh Kackar has also filed a; supplementary counter affidavit and Sri Ganga Singh, who is holding the brief of the Petitioner, has stated that he does not want to file supplementary rejoinder affidavit.

2, The Petitioner was admitted by Govind Ballabh Pant University, Pant Nagar, Nainital (here-in-after referred to as the University) to M.S. (Agriculture) in the year 1988-89. The Petitioner thereafter appeared in the first semester in which he was declared failed. He was permitted to appear in the second semester examination but again he could not succeed. Regulation 26(1) of the Regulations framed by the University provides that students, who have failed in both the semesters have to be dropped from the University for poor academic performance with a right to petition for readmission. The Petitioner applied for readmission but the University authorities have declined to grant him readmission.

3. Paragraphs 9 and 10 of the writ petition in which the question of discrimination has been raised being relevant are reproduced below :

9. That it has been the usual practice in the University to grant relaxation in such cases. Another student Sri D.K. Singh M.Sc. Ag. (Agronomy) whose grand point average is 2.666 that is much below the required, the grand point average of 4.000 out of 5.000 has been considered favourably for readmission.

10. That in view of the averments made in the preceding paragraph it is clear that the Petitioner has been discriminated for without any basis.

The University authorities filed a counter affidavit and in paragraph 8 thereof, it has been stated that in the absence of the identification number of Sri D.K. Singh, whose reference has been made in paragraph 9 of the writ petition, it is difficult to verify as to which year/semester and student, the Petitioner is making reference. In the rejoinder affidavit, photostat copies of the report of Sri D.K. Singh has been filed as Annexure RA-I to RA-III. The University thereupon filed a supplementary counter affidavit. From the perusal of the supplementary counter affidavit, it is clear that Sri D.K. Singh was also admitted to M.Sc. (Agriculture) and he appeared in first and second semesters and was dropped on account of his poor performance. However, he was readmitted again in the first and second semesters in the year 1987-88 and 1988-89. It has been stated in the supplementary counter affidavit that a petition committee consisting of all the Deans of the college of the University considers the question of readmission and in the case of the Petitioner the said committee has decided not to grant him readmission, although the same committee has granted readmission to Sri D.K. Singh.

4. Sri Dinesh Kackar, learned Counsel for the University has raised a preliminary objection to the effect that as this Court cannot interfere with the decision of academic body under Article 226 of the Constitution of India, this writ petition is not maintainable. In support of this submission he has placed reliance on a decision of a learned Single Judge of this Court in the case of Rajesh Kumar v. Chancellor, 1992 (1) UP LB EC 657. It is not possible to agree with the learned Counsel for the Respondents. It is true that this Court normally does not interfere with the decision of the academic authorities under Article 226 of the Constitution of India ; but this does not mean that the decisions of the academic authorities cannot be challenged before this Court under any circumstances. There is no such immunity accorded to the decisions of the academic bodies. If the decisions of these bodies are challenged on the ground of want of jurisdiction, malafide or arbitrariness or on the ground that they suffer from manifest error of law, this Court is free to interfere under Article 226 of the Constitution of India and such decisions can be set aside by this Court When an order of educational authorities is challenged on the ground of discrimination, as has been done in the instant case, it is the duty of these authorities to place before the Court appropriate material by filing counter affidavit in order to show that no person has been discriminated against by the authorities.

5. In the instant case, it is quite clear that both the Petitioner and Sri D.K. Singh were admitted in M.Sc. (Agriculture) and it is also true that both of them failed in two semesters; but Sri D.K. Singh was readmitted while the Petitioner was refused readmission. No averment has been made in the counter affidavit or supplementary counter affidavit in order to make distinction between the cases of the Petitioner and Sri D. K Singh and the only thing which has been stated is that Sri D.K. Singh has given a bond for improving his academic career. Such a bond could have been asked from the Petitioner also. learned Counsel for the Petitioner has stated that the Petitioner is willing to give bond and he could have done it earlier if such a bond was asked for. Execution of bond by a candidate, who seeks readmission has not been provided for by the Statute. Even in the absence of such a provision in Statute, University authorities may ask for execution of a bond for improving the academic performance; but opportunity to execute such a bond should be given to every student, who seeks readmission In the instant case no such opportunity was given to the Petitioner.

6. From a perusal of paragraph 9 of the decision of this Court in the case of Rajesh Kumar v. Chancellor (supra), it appears that the Respondents have been granting readmission to those like the Petitioner, who have failed in two semesters. In that case plea of discrimination was raised which was rejected on the ground that the Petitioner therein was not one who was entitled to be readmitted in view of the fact that he failed to get a C G P A of 2,500. In the present case it has not been pleaded in the counter affidavit that the Petitioner was not entitled to seek readmission, The only thing which has been said about him, is that admission committee has refused to give him readmission after considering his case. Why he has been refused readmission and why readmission has been granted to other students have not been explained in the counter affidavit. The academic authorities are also bound by Article 14 of the Constitution of India and it is not open to them to discriminate against any student in the matter of admission or readmission.

7. For the reasons given above, this writ petition is allowed and the impugned order dated 30-1-1990 (Annexure IV to the writ petition) is quashed. The Respondents are directed to consider the case of the Petitioner afresh for readmission keeping in view the bond for improving his academic career, which will be filed by the Petitioner along with a certified copy of this order within one month from today