
(1970) 09 P&H CK 0019
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 2198 of 1969

Harish Kumar Jain

APPELLANT

Vs

The Punjab University and another

RESPONDENT

Date of Decision : 03-09-1970

Acts Referred:

Citation : (1970) 09 P&H CK 0019

Hon'ble Judges : Bal Raj Tuli, J

Bench : Single Bench

Advocate : N.C. Jain, for the Appellant; A.S. Anand and Mr. G.C. Garg, for the Respondent

Final Decision : Dismissed

Judgement

B.R. Tuli, J.—The Petitioner passed the Higher Secondary Examination with Science subjects in 1967 in Second Division obtaining 615 marks out of 3100(sic). He joined Dyal Singh College, Karnal, in 1967, in B. Sc. Part I. That College is affiliated to the Punjab University and all the rules and by laws mentioned in the Panjab University Calendar are applicable to it. The Petitioner failed in 1968 because he was ill during the days of examination but in 1969 he passed B. Sc. Part I Examination securing 59% marks. He missed the First Division by only three marks.

2. During the academic year 1968-69, the Petitioner was held guilty of indecent behaviour towards a girl student and was fined Rs. 25/- by the principal. The Petitioner paid the fine in spite of the fact that he had denied the allegation against him.

3. The Petitioner applied for admission to the B. Sc Part II in the same College on July 14, 1969 but the Principal refused to admit him. The Petitioner took his brother and some other respectable persons of the town to the Principal for persuading him to admit the Petitioner but the Principal remained adamant in refusing admission to him. The Petitioner's father gave a notice to the Principal

through an Advocate and filed the present petition because the Principal did not relent.

4. The case of the Petitioner is that the admission to B. Sc. Part II Class is a routine matter and any student, who studied in the same College for B. Sc. Part I, could not be refused admission in B. Sc Part II. This assertion is denied by the Principal of the College in his written statement, wherein he has stated that-

the admission to the next class in the same college is not a matter of routine. Admission is subject to certain conditions like good conduct and behaviour in the previous years by the student which are essential for maintaining some discipline in the Institution. After a student passes an examination, he only becomes eligible to be admitted to the next higher class subject to his being of desirable character and other requirements as the Principal may deem fit, and (sic) supposed right vests in him to get the admission as of right .

On these facts, the question arises whether the Petitioner has any legal right to admission in the Dyal Singh College in B. Sc. Part II, on the ground that he was a student of that College in B. Sc. Part I. If he has any legal right, a writ of mandamus can be issued to the Principal but if he has no legal right, no such writ can be issued. This matter was considered by a learned Single Judge of the Allahabad High Court in Kumari Asha Lata Vs. The Principal, Meerut College, Meerut, and negating the right of the Petitioner to a writ of mandamus commanding the Princi - to admit her into M. Sc. Previous Class for the next session, held.

(i) that the Petitioner could succeed only if two conditions were fulfilled: first that she had a legal right to be admitted to that class and second that there was a legal duty cast on the Principal to admit her:

(ii) that neither the Agra University Act nor the Rules framed thereunder gave the Petitioner any right to secure admission into the class she wants, nor was there any legal or statutory duty on the Principal of the College to admit her. Admissions of students to educational institution are deemed to be domestic affairs of the institution concerned and are left to the discretion of the authorities who are charged with the responsibility of managing it. Such matters are not amenable to a writ of mandamus, under which writ no authority can be directed to exercise its discretion in a particular manner (As per head-note).

With respect, I entirely agree with the observations of the learned Judge and hold that the Petitioner in the present case has no legal right to be admitted in Dyal Singh College, Karnal, nor has the Principal of that College any statutory obligation to admit him. The admission of a student into the Colledge is a matter of discretion with the Principal of that College or a Committee, if any is formed for admission. No student has the right to trust himself on the College if the authorities of that College do not wish to admit him. It is, therefore, not possible to issue any writ of mandamus directing the Principal of the Respondent - College to admit the Petitioner.

5. The learned Counsel then states that a writ of certiorari may be issued quashing the order of the Principal refusing admission to the Petitioner. No such order was passed by the Principal. All that he did was not to forward the Petitioner's application for admission to the Cashier of the College to receive the dues from him, which implied rejection of his admission to the College. The Principal was not acting in a judicial or quasi-judicial capacity while deciding about the admission of the students into the College and for this reason his refusal to admit the Petitioner into the College cannot be said to be a judicial order amenable to the writ of certiorari. Such a writ can also not be issued.

6. The learned Counsel for the Petitioner has, however relied on *Sadhu Ram Hardwari Lal v. Principal, Rajindra College, Bhatdinda* and another, AIR 1954 Pepsu 151 and *Devinderpal Singh Sandhu Vs. K.L. Kapur and Another*, Those cases related to expulsion or rustication and the matter canvassed before the learned Judges was that either there was no material for the order or that the student had not been given any hearing before passing the order. The order of expulsion or rustication from the College is a penal order resulting in a stigma on the student and also affecting his educational career. Such cases, therefore, are on a different level and a writ of certiorari (sic) can be issued to quash them because those orders are quasi-judicial in nature. But, an order refusing admission to a student into the College cannot be equated with an order of expulsion or rustication from a College of a student already admitted there. I, therefore, hold that the petition is not maintainable and dismiss the same but without any order as to costs.