
(2004) 08 AHC CK 0007
In the Allahabad High Court
Case No : C.M.W.P. No. 19827 of 2004

Indra Mani Pandey

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 17-08-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 5 AWC 5195

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : A.P. Sahi and S.C. Pandey, for the Appellant;

Final Decision : Allowed

Judgement

Arun Tandon, J.—Heard Sri A.P. Sahi, learned Counsel for the Petitioner and learned standing counsel for the Respondent.

2. Petitioner is aggrieved by an order passed by the Principal, District Education & Training Institution, Allahabad dated 18th May, 2004, whereby the admission of the Petitioner has been cancelled.

3. It is contended on behalf of the Petitioner that in pursuance of the entrance examination conducted by the Respondent for admission to B.T.C. course in the year, 2001, the Petitioner was successful and was admitted in the said B.T.C. Training Course and was allotted for admission in the District Education and Training Institute, Allahabad. It is further stated that the Petitioner has completed his course and also appeared in first and second paper of the examinations of the said course which commenced from 18th May, 2004. During the period of examinations the Petitioner has been served with the impugned order, whereby his admission has been cancelled on the ground that one Sushil Kumar Pandey, who was entitled to the benefits of the reserved category in respect of the Physically handicapped category was illegally refused admission and as a consequence thereto this Court passed an order directing the

Respondent to admit Sri Sushil Kumar Pandey in the said reserved category of physically handicapped. Since there was no other vacancy available for B.T.C. Training Course, 2001, to accommodate Sushil Kumar Pandey, the Principal of the Institute passed the impugned order cancelling the admission of the Petitioner on the ground that the Petitioner is the last candidate admitted in the said course for the general category male.

4. On behalf of the petitioner it is further contended that the Petitioner had been admitted after passing the entrance examination. He has not played any fraud nor he has misrepresented before any authority concerned. It is not permissible under law to cancel the admission of the Petitioner after he has completed the course and has undertaken the first and second papers of the said examination in respect of the said course. In support of the said contentions, Petitioner has placed reliance upon the judgment of the Hon''ble Supreme Court in *Sanatan Gauda Vs. Berhampur University and others*, , as also upon the judgment of this Court in *Shikshak Abhibhavak Sangh, Jai Narain Inter College, Varanasi and Ors. v. Secretary, Board of High School and Intermediate Education, Uttar Pradesh and Ors.* 1990 AWC 1524.

5. On behalf of the Respondent it is contended that since the Petitioner had been admitted by mistake against the vacancy which should have been reserved for the candidate belonging to the Physically handicapped category, therefore this Court under Article 226 of the Constitution of India may not grant any relief to the Petitioner on the basis of his aforesaid incorrect admission.

6. I have heard learned Counsel for the parties and have gone through the records of the present writ petition.

7. It is not in dispute that in pursuance of the entrance examination conducted by the Respondent, Petitioner was admitted to the B.T.C. Training Course, 2001. The duration of the said course is only two years and the Petitioner has already completed the 1st year of the course and has also undertaken the examination of first and second papers of the said course, which started on 18th May, 2004.

8. From the record of the writ petition it is apparently clear that there are no allegations of fraud or misrepresentation made by the Petitioner. It is further apparent that the Petitioner had already invested one year of his academic career subsequent to his admission in the said course. It is obvious that there was no mistake levelled against the Petitioner in his admission in the B.T.C. Training Course, 2001 and the mistake, if any, was of the Respondent themselves. The Petitioner cannot be blamed for the mistake, if any, committed by the Respondent nor can they be said permitted to jeopardise his career in such a manner. This Court in the case of *P.K. Dubey v. University of Kanpur* 1990 ACJ 508, has held as follows:

Nobody will be allowed to suffer for the mistake of the other.

9. Similarly the Hon''ble Supreme Court in the case of *Shri Krishnan Vs. The*

Kurukshetra University, Kurukshetra, , has held as follows:

This is apart from the fact that I find that in the present case the Appellant while securing his admission in the Law College had admittedly submitted his mark-sheet along with the application for admission. The Law College had admitted him. He had pursued his studies for two years. The University had also granted him the admission card for the Pre-Law and Intermediate Law Examinations. He was permitted to appear in the said examinations. He was also admitted to the final year of the course. It is only at the stage of the declaration of his results of the Pre-Law and Inter-Law examinations that the University raised the objection to his so-called ineligibility to be admitted to the Law course. The University is, therefore, clearly estopped from refusing to declare the result of the Appellant's examination or from preventing him from pursuing his final year course.

10 In view of the aforesaid legal position and in the facts and circumstances of the case noticed by this Court the order passed by the Principal, District Education & Training Institution, Allahabad dated 18th May, 2004, cannot be legally sustained and is hereby quashed. Since the Petitioner has not been permitted to undertake remaining paper of B.T.C. examination, it is provided that the Respondent shall ensure that special examination is conducted in respect of the remaining papers of the B.T.C. course of the Petitioner within one month. If the Petitioner is successful in the aforesaid examination, he shall be permitted to undertake his studies in the second year of the course. With the above observations the impugned order is quashed to the extent it has cancelled the admission of the Petitioner. This order will not affect in any manner the right of Sri Sushil Kumar Pandey.

11. The writ petition is, accordingly, allowed.