

(2013) 10 MP CK 0152
In the Madhya Pradesh High Court
Case No : W.A. 451 of 2013

Janta Vidyalaya Shiksha Samiti

APPELLANT

Vs

Jiwaji University and Another

RESPONDENT

Date of Decision : 11-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0152

Hon'ble Judges : S.K. Gangele, J;G.D. Saxena, J

Bench : Division Bench

Advocate : Vivek Khedkar and Mr. Nakul Khedkar, for the Appellant; R.S. Sharma, Advocate for University, for the Respondent

Final Decision : Partly Allowed

Judgement

1. With the consent of the learned counsel for the parties, matter is heard finally. This Writ Appeal has been filed against the order dated 05.08.2013 passed in W.P. No. 8999/2012.
2. The appellant challenged before the Writ Court the order dated 25.04.2011 by which the University imposed a fine of Rs. 3,25,000/- against the appellant on the ground that the appellant had admitted the students in excess to the limit of students fixed by the University in the order of affiliation. The appellant was directed to deposit the fine amount of Rs. 15,000/- each of the students of graduate and Rs. 25,000/- each in regard to students of post graduate.
3. The order of learned writ court has been challenged on various grounds but during arguments learned counsel for the appellant restricted his arguments in regard to quantum of fine and he further submitted that before imposing fine, no opportunity of hearing was afforded to the appellant which is contrary to the principle of natural justice.
4. The liability of the appellant has not been disputed. The learned Writ Court has considered the question of grant of opportunity of hearing in para 14 of the order impugned and held as under:

14.... Since the petitioner had admittedly admitted students beyond the capacity, there was no question of granting him opportunity as per principles of natural justice. This would have been a useless formality. If show cause was not issued, no prejudice is caused to the petitioner nor such prejudice could be established before this Court.

5. It is an admitted fact that the act of the appellant in regard to admitting the students is contrary to law, however, in regard to imposing of fine amount it was obligatory on the part of the University to give an opportunity of hearing to the appellant/institution because as per appellant/institution, the University permitted the students to participate in two semesters' examinations.

6. In our opinion, the quantum of fine could be fixed after hearing the appellant/institution. Hence, the appeal is partly allowed. The order Annexure P-1 passed in regard to imposing the quantum of fine amount Rs. 15,000/- and Rs. 25,000/- each for students of graduate and post graduate level is hereby set aside. The matter is remanded back to the University to fix the quantum of fine after giving opportunity of hearing to the appellant/institution.

7. The appellant/Institution is at liberty to file reply before the University in regard to quantum of fine and the University shall take a decision in regard to quantum of fine after considering the reply. In regard to rest of the findings recorded by the learned Single Judge, in the opinion of this Court, they are in accordance with law. Appeal stands disposed of. The order passed by the learned Writ Court is modified to the extent indicated hereinabove.