

(2013) 11 DEL CK 0413

In the Delhi High Court

Case No : Writ Petition (C) No. 2111 of 2013

Jitender Kumar

APPELLANT

Vs

Jamia Millia Islamia and Others

RESPONDENT

Date of Decision : 11-11-2013

Acts Referred:

Citation : (2013) 11 DEL CK 0413

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : R.D. Sharma, Mr. Chetan Sharma, Mr. Mohan Lal, Ms. Ruchika Sharma and Mr. Rajat Sharma, for the Appellant; Jaya Goyal and Mr. Rohit Gandhi, for the Respondent

Final Decision : Disposed Off

Judgement

V.K. Jain, J.—Vide offer letter dated 22.3.2010 issued by the respondent, Jamia Millia Islamia, the petitioner was informed that the Board of Studies of the Department of Economics had considered his research proposal and recommended his registration for the Ph.D. Course under the supervision of Dr. Bathula Srinivas. In continuation of the aforesaid letter, the petitioner was informed, vide letter dated 8.4.2010, that he had been provisionally admitted to the Ph.D. Programme under the supervision of the aforesaid supervisor. He was required to submit his progress report after every six months through proper channel and was further informed that in case of failure, his admission would be cancelled. Vide communication dated 24.8.2010, the petitioner was found eligible for grant of Non-Net Fellowship. The petitioner sought some modification in the topic assigned to him and the said modification was granted by the University in due course.

A certificate dated 15.3.2011 was issued to the petitioner by his supervisor certifying that his performance had been satisfactory and the research work was in progress. He also recommended fellowship so that the petitioner could complete the research. The petitioner also cleared the examination held in the

year 2011 and his result was declared on 10.8.2011.

Vide letter dated 27.9.2011, the petitioner alleging problem of conversation between him and his supervisor, Dr. Bathula Srinivas, sought change of the Supervisor at an early date. This request was reiterated by the petitioner vide his letter dated 23.3.2012 whereupon an endorsement was made that the present Guide, Dr. Srinivas, would continue till some final decision was taken on his request.

2. Vide notice dated 13.9.2012 the respondent-University informed the petitioner that none of the faculty members was willing to supervise him and in these circumstances the Board of Studies had no choice left but to recommend cancellation of his Ph.D. registration due to non-availability of supervisor. The petitioner was given a notice to show cause why his Ph.D. registration should not be cancelled. Thus, the only ground given in the show cause notice for proposing cancellation of Ph.D. registration of the petitioner was the unwillingness of any of the faculty members to be his supervisor. The petitioner responded to the aforesaid notice and vide letter dated 17.12.2012, the University conveyed the minutes of the Board of Studies meeting held on 17.12.2012 to all the members of the said Committee. A perusal of the aforesaid minutes would show that Dr. Bathula Srinivas, reiterated that the performance of the six monthly progress of the candidate was not satisfactory and despite repeated encouragement, instructions and reminders to improve his performance he had submitted an application for change of supervisor. The minutes would further show that an attempt was made by the Board of Studies to identify a supervisor to replace Dr. Bathula but no faculty member was willing to be his supervisor and it was for this reason that a show cause notice was issued to the petitioner proposing cancellation of his Ph.D. registration. The Board of Studies recommended cancellation of the registration of the petitioner on the following grounds:

In the light of the relevant ordinances, and in view of the facts that: 1) unsatisfactory performance reported by Supervisor; 2) with no other Faculty is willing to supervise from the department, and also; 3) the reply of the show cause being unconvincing, and incorrect factually, the BoS unanimously recommended the cancellation of PhD registration of Mr. Jitender Kumar with immediate effect.

Based on the aforesaid recommendations the registration of the petitioner for Ph.D. course was cancelled vide order dated 17.12.2012. This is also the grievance of the petitioner that Non-Net fellowship which was granted to him under the Rajiv Gandhi National Fellowship for SC/ST Candidates for the year 2010-2011 has also been denied to him since May, 2011. He is, therefore, before this Court seeking the following reliefs:

- (i) allow the present writ petition of the petitioner;;
- (ii) issue a writ of mandamus or any other appropriate writ(s)/order(s)/direction(s) against the Respondent(s) thereby directing the Respondent(s) to

revoke/set-aside/quash the impugned office order dated 17.12.2012 passed by the Respondent No. 2 on the basis of a meeting of Board of Studies of Respondent No. 1 held on 12.12.2012, whereby the registration of the Petitioner in an on-going Ph.D. Course (Economics) has been cancelled with immediate effect in an anticipation of approval of Faculty Committee with immediate effect;

(iii) direct the Respondents to re-admit/re-enroll the Petitioner in his Ph. D. (Economics) Course at its original number i.e. Enrolment No. 10-7762 allotted to the Petitioner at the time of his admission in the year 2010;

(iv) direct the Respondents to provide an alternative proper supervisor or co-supervisor to the Petitioner to supervise him in his studies enabling him to complete his Ph.D. Course in time;

(v) direct the Respondent(s) to receive/accept the thesis of the Petitioner prepared by him for the period already due i.e. 30th April 2010 onwards after resuming his studies;

(vi) direct the Respondents to extend the period of completion of Ph.D. Course of Petitioner being wasted by the Respondents in the manner stated in the petition by cancelling the registration of the Petitioner;

(vii) direct the Respondents to resume the scholarship of the Petitioner which has been withheld by the Respondents from July 2011 illegally and also to pay the arrears of scholarship w.e.f. July 2011 onwards till date;

3. In its counter affidavit, the respondent-University has taken the stand that the performance of the petitioner was not found satisfactory by his supervisor and he had also failed to submit 4th & 5th six monthly progress report which was one of the essential requirements for successful continuation of the Ph.D. course in terms of Ordinance 9 (8) (vi) (academic) of the University.

The learned counsel for the respondent also submits that since every faculty member has adequate Ph.D. registrants under his supervision, it is not possible for the University to assign the petitioner to another supervisor.

4. As would be seen from the show cause notice issued to the petitioner, the only ground given in the said notice while proposing cancellation of his Ph.D. registration was that no faculty member was willing to be appointed as his supervisor. This was not the ground in the show cause notice that the performance of the petitioner was not found to be satisfactory or that he had failed to submit 4th & 5th six monthly progress reports. As a result the petitioner got no opportunity to place his case with respect to the alleged non-satisfactory performance and failure to submit 4th & 5th half monthly progress reports before the University. Without giving show cause notice and opportunity of hearing with respect to the alleged poor performance and failure to submit the six monthly progress reports, the University could not have cancelled the registration of the petitioner.

5. Moreover, no report of the supervisor, reporting non-satisfactory performance of the petitioner, has been filed by the respondent. As regards change of Supervisor, it is not obligatory for the University to accede to the request made by student unless the University found merit in the representation made by him in this regard. I am in agreement with the learned counsel for the respondent-University that the alleged communication gap between the petitioner and his Guide could not have been a bona fide reason for seeking change of the supervisor. The petitioner continued his research under the same supervisor for about one and a half years and that supervisor also gave a satisfactory performance report to him. Had there been a communication gap between the petitioner and his supervisor he would have sought change of supervisor soon after he got enrolled and started working under him. The University in these circumstances ought to have rejected the request of the petitioner seeking change of the Supervisor instead of cancelling his registration for the Ph.D. course.

6. As regards non-availability of supervisor pleaded by the learned counsel for the respondents, it is for the University to find out a supervisor for the students, who have been enrolled by it for the Ph.D. course. As noted earlier, the University would be justified in rejecting the request of the petitioner seeking change of supervisor, the request being without any reasonable basis. Therefore, if the University so decides it may continue with the same supervisor.

7. As regards discontinuance of fellowship the learned counsel for the petitioner does not press for any relief in this writ petition but reserves his right to seek an appropriate remedy in this regard by way of making representation to the University or by way of an independent proceedings. For the reasons stated hereinabove, the impugned order dated 17.12.2012 is hereby set aside and the respondent University is directed to permit the petitioner to resume his Ph.D. course. It is also made clear that the time spent between 17.12.2012 and today shall not be counted for the purpose of completion of the Ph.D. course by the petitioner. It is also made clear that this order does not come in the way of the University initiating fresh steps for cancellation of the registration on the ground of the alleged unsatisfactory performance of the petitioner, in case the University is so advised.

The writ petition stands disposed of.