
(2017) 04 P&H CK 0040
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 16665 of 2015

Kishore Khatait

APPELLANT

Vs

Guru Nanak Dev University, Amritsar

RESPONDENT

Date of Decision : 07-04-2017

Acts Referred:

Constitution of India, 1950 — Article 14, Article 226

Citation : (2017) 3 SCT 238

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

Bench : Single Bench

Advocate : F.S. Virk, Advocate, for the Petitioner; Amrit Paul, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J. (Oral)—The petitioner took admission in the 1st semester of B.Tech (Computer Science & Engineering) for the Session 2012-13 in the Guru Nanak Dev University Campus Sathiala. The seat was allotted to him by the Punjab Technical University, Jalandhar on the basis of his AIEEE result against the quota of 15% seats for the other States in the Scheduled Castes/ Scheduled Tribes category. The petitioner belongs to Scheduled Tribe category as per the certificate dated 2.11.2011. At the time of his admission, the petitioner gave an undertaking that he had already applied for scholarship which is given by the Punjab Government to the students belonging to Scheduled Caste category and in case the Punjab Government did not send his scholarship and he would fail to deposit his fee then the University can withhold his degree and DMC. The petitioner after having completed 6th semester out of total 8 semesters of the course, approached this Court when he was not allowed to continue with the studies on account of the general notice dated 20.7.2015 in which it was mandated that if the students have not deposited the fee till stipulated date then they would not be permitted to attend their classes. On 4.9.2015, the main writ petition was admitted and the petitioner was allowed to

continue with his studies since admittedly for three years his application for exemption from fee was not opposed. However, the said arrangement was made temporarily, subject to the final outcome of the writ petition. After admission, the main petition is listed at Sr. No.329 on the regular board of this Court. The petitioner has, however, filed an application bearing CM No.9548 of 2016 in which he has prayed for a direction to the respondents to issue B.Tech. degree to him in the meantime. In the said application, notice was issued and in terms of the order dated 14.12.2016, the respondent-University has filed the affidavit dated 14.2.2017. Since, both the counsel for the parties are ready with the arguments in the main case, therefore, with their consent, the main writ petition is rather taken up for hearing and is being decided.

2. The whole case of the petitioner is that he had taken admission in a 'Fee Waiver Scheme' and has submitted that at the time when he was allotted to the respondents, it was specifically mentioned on his admission slip that his admission is being granted under 'Fee Waiver Scheme'. It is submitted that vide notification issued by the State of Punjab on 12.01.2012, it was provided that "all institutions affiliated to PTU shall follow 'Fee Waiver Scheme' as prescribed by AICTE and notified by Government of Punjab vide its notification No.13/60/08-1TE2/1797, dated 23rd May, 2011. The other institutions/universities i.e. GNDU Amritsar and Punjabi University, Patiala may notify their respective fee waiver scheme separately". In view of this provision, the respondents have filed their affidavit in which they have averred that "the 'Fee Waiver Scheme' of AICTE, as issued vide Punjab Government Notification dated 23.5.2011 was meant/applicable only for technical institutions approved by the AICTE as is specifically so prescribed in Para No.1(iv). It is further mentioned that "the respondent/GNDU and all its campuses and affiliated and constituent colleges do not come under the purview of the AICTE as no technical institution/college in the Punjab State is affiliated to it and hence there was no question for the respondent/GNDU of exercising its discretion of notifying such a separate discretionary 'Fee Waiver Scheme' for it and for any of its affiliated and constituent colleges and its constituent campuses including its Regional Campus, Sathiala, where the petitioner got admission. It is further mentioned that "the AICTE Fee Waiver Scheme applies only to the Technical Colleges/Institutions. All the Technical Colleges/Institutions in the Punjab State were affiliated only to Punjab Technical University, Jalandhar as per the mandate of its PTU Act, 1995. No Technical College/Institution in the Punjab State was or is affiliated to the respondent No.1- University. Therefore, it is stated here that no separate Fee Waiver Scheme was notified by the respondent No.1-University for any of its Affiliated/Constituent Colleges and its constituent campuses including its Regional Campus, Sathiala".

3. Since, the petitioner has been relying upon the notification of the State Government, Punjab dated 12.01.2012, already referred herein above, as per which all institutions affiliated to PTU were to follow 'Fee Waiver Scheme' and direction was given to other institutions/universities i.e. GNDU Amritsar and

Punjabi University, Patiala to notify their respective fee waiver scheme separately, which has never been opted by the GNDU, Amritsar, therefore, the petitioner cannot claim the 'Fee Waiver Scheme' as a matter of right. The position would have been altogether different had the petitioner been a student of the institution affiliated to Punjab Technical University because in that situation, the provision of the notification dated 12.1.2012 referred to herein-above, would have covered the case of the petitioner with all force.

4. On the other hand, learned counsel for the respondents has brought to the notice of this Court that the State of Bihar, who has issued the Scheduled Tribe certificate to the petitioner has sent an amount of Rs. 66,630/- as scholarship and no scholarship has been sent by the State of Punjab, therefore, the said amount of scholarship has been adjusted by the respondents out of total amount of Rs. 4,01,210/- (tentative). The amount already paid by the petitioner is Rs. 12,100/- and after that the petitioner has been found liable to pay Rs. 3,22,750/- (tentative). It is submitted by learned counsel for the respondents that even the petitioner has made an application in his own hand that the amount of scholarship sent by the State of Bihar be adjusted towards his fee.

5. Learned counsel for the petitioner has submitted that the petitioner is a poor person from Bihar and belonging to the Scheduled Tribe. It is submitted that the petitioner has no means to pay the fee of the University and has already completed his all the semesters under the order of this Court and therefore, in equity, the respondents may be directed to issue degree and DMC of the petitioner.

6. On the other hand, learned counsel for the respondents has submitted that the petitioner is not entitled to any equity because at no point of time the respondent has made any kind of promise to the petitioner that it would waive off the fee of the petitioner and the petitioner kept the respondents in dark through out that he had applied for scholarship to the State of Punjab which shall be given to him and in case the scholarship is not given then he would deposit the fee and in case of his failure to deposit the same the University may withhold his degree and DMC. Learned counsel for the respondents also submits that the scholarship is meant for the students belonging to Scheduled Caste recognised by the State of Punjab and since the petitioner has been declared a Scheduled Tribe by the State of Bihar, therefore, the claim of Post Matric Scholarship meant for Scheduled Castes students of the State of Punjab is not applicable to the petitioner. He has also referred to the various undertakings given by the petitioner, which are part of the record in which he has specifically stated that "if Punjab Government do not pay my fees (course fee), then I will deposit my fees, otherwise GNDU has authority to take necessary action". In another letter, he has specifically sated that "I have not applied for any kind of SC/ST scholarship either in Punjab or Bihar. Also if I am unable to pay any due fees. I will surrender my degree without any condition".

7. In these circumstances, when the petitioner has been studying in the college/

institution, giving false assurances and then ultimately filed the writ petition and obtained order of the Court for the purpose of continuation of his studies then he cannot ask for any kind of equity from the Court for the purpose of issuance of degree and DMC to him as the petitioner himself is bound by his own undertaking.

8. Thus, in view of the aforesaid facts and circumstances, I hardly find any reason to interfere in this petition and the same is hereby dismissed.