
(2019) 02 UK CK 0019

In the Uttarakhand High Court

Case No : Writ Petition (M Of S) No. 2828 Of 2018

Km. Renu Negi

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 19-02-2019

Acts Referred:

Citation : (2019) 02 UK CK 0019

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : Prem Singh, D.C.S. Rawat, S.R. Joshi

Final Decision : Disposed Off

Judgement

Lok Pal Singh, J

1. Petitioner has approached this Court seeking the following reliefs:

i) To issue a writ, order or direction in the nature of certiorari quashing the order dated 07.06.2017 issued and uploaded by respondent no.1 in the department website whereby the respondent no.1 has illegally on flimsy ground rejected the application of petitioner for award of SHE-INSPIRE scholarship.

ii) To issue a writ, order or direction in the nature of mandamus commanding the respondent authorities no.1 to declare and treat the petitioner as eligible for SHE-INSPIRE scholarship and further to grant the petitioner as eligible for SHE-INSPIRE scholarship and further to grant the petitioner her SHE-INSPIRE scholarship from 2016 onwards upto five years as provided in the said scheme.

iii) To issue any other or further writ, order or direction which this Hon'ble Court deem fit and proper in the circumstances of the case.

iv) To award the cost of the petition in favour of the petitioner.

2. Brief facts of the case are that the petitioner is permanent resident of Village Soniyana P.O. Gairsain District Chamoli, Uttarakhand. Petitioner belongs to BPL

(Below Poverty Line); her father was engaged in private job, who got expired when the petitioner was pursuing her Intermediate; petitioner's mother is the only bread winner of the family who by somehow is managing her family; petitioners are three brothers and sisters; her sisters and brother are studying in junior classes in government schools. Petitioner passed high school examination in 2014 with first division with 9.2 Cumulative grade point average; intermediate in 2016 with 81 per cent; and, B.Sc. I, II, III and IV Semesters with First Division. It is the submission that the Ministry of Science and Technology, Union of India, , in order to attract youth talents for strengthening the Research and Development base of the country, has initiated multiple component programs. One such programme is Scholarship for Higher Education (SHE), under which, the selected candidate is awarded scholarship of ` 80,000/- per year for five years till the student completes its B.Sc. and M.Sc. courses. In order to become eligible for scholarship under the INSPIRE-SHE, the candidate should come in top 1% in Class XII Board Examination conducted by the respective State Education Boards. It is the case of the petitioner that she is topper with 1% in Class XII Board Examination conducted by School Education Board, Ramnagar, Uttarakhand and as such she is fully eligible to get the scholarship under the INSPIRE-SHE. In this regard, an eligibility certificate has also been issued to the petitioner by the Uttarakhand School Education Board, Ramnagar, which is Annexure-1. Petitioner, being fully eligible, submitted the online form for scholarship for the year 2016 onwards for 5 years in the respondent no.1 department's website with all relevant documents attached with the form as per the requirements of the application. However, vide an email correspondence, respondent no.1 authority sent intimation to the petitioner that her form for SHE-INSPIRE is rejected on account of endorsement certificate not in proper form. After the rejection of the application form, petitioner submitted fresh form with fresh endorsement certificate issued from the office of third respondent, but no order or communication has been made to her on her application form. Being aggrieved, petitioner has approached this Court.

3. Counter affidavit has been filed on behalf of first respondent - Union of India stating that the petitioner's application was evaluated as per the norms of INSPIRE-SHE scheme and on evaluation it was found that the petitioner had submitted Performance Report in place of endorsement certificate which constitutes as 'incomplete' application and thus the petitioner's candidature was rejected.

4. Counter affidavit has been filed on behalf of third respondent, wherein it is stated that it was the sole responsibility of the petitioner to submit the application form in time while complying with the necessary directions and guidelines. It is also stated that the petitioner had put forth the duly filled endorsement form before the respondent no.3 and the respondent no. had put his signature with date and official seal on the endorsement form when it was put up before him by the petitioner. It is also stated that it was the full and final responsibility of the petitioner to fill the form correctly and there is fault on his

part.

5. I have heard learned counsel for the parties and have gone through the material available on record.

6. In the case at hand, petitioner's application for grant of scholarship has been rejected on account of the fact that the endorsement certificate was not in proper form. The Court finds that the endorsement certificate was signed by third respondent-Principal with date and official seal, who contends that it was the sole responsibility of the petitioner to fill the application form correctly. At this juncture, this Court poses question to itself that had it not been the duty of the Principal of the College to guide the student in filling the application form correctly? The answer would be that the Principal cannot escape from his/her liability merely by saying that he had signed the application form when it was put for signature before him. He was supposed to ensure whether the form has been filled by the petitioner in correct format with all relevant documents or not, as the petitioner was in need of scholarship and was filling the said form for the very first time.

7. Another aspect of the matter is that The INSPIRE-SHE Scheme, launched by Ministry of Science and Technology, is a benevolent scheme aimed to offer 12,000 scholarships to the students every year @ Rs.80,000/- each for undertaking Bachelor and Masters level education in the Natural & Basic sciences. This fact is not in dispute that the petitioner is a topper with 1% of the State of Uttarakhand and has secured 81% marks in the Intermediate Examination. The SHE-INSPIRE Scheme has been launched to grant scholarship to the toppers of the State. As such, the petitioner applied but her form was rejected due to the fact that endorsement certificate was not in proper form. Thereafter, when fresh application along with fresh endorsement certificate was filed by the petitioner, after rejection of earlier one, the first respondent did not took a decision on the same and slept over the matter without looking to the fact that the future of the petitioner is at stake.

8. Learned counsel appearing for Union of India would refer to a judgment of Delhi High Court in the case of Ms. Garima Yadav vs. Union of India W.P.(C) 8457/2018 decided on 20.08.2018 wherein the Delhi High Court has dismissed the petition filed by the petitioner to consider the candidature of the petitioner for INSPIRE Scholarship program. The Delhi High Court, in its judgment, has not considered the object behind the SHE-INSPIRE Scheme and without assigning any reason has dismissed the writ petition. It is settled proposition of law that reasons to record in a judgment are life of law and in absence thereof, judgment cannot be said to be legal. Reference may be made to State of Uttaranchal vs. Sunil Kumar Vaish, (2011) 8 SCC 670. As no reason has been assigned in judgment of Garima Yadav by the Delhi High Court, it is of no help to the counsel for Union of India.

9. The SHE-INSPIRE Scheme is a benevolent scheme but the application of the

petitioner has been rejected on hyper-technical ground which is contrary to the object and spirit of the scheme. A perusal of the impugned order would further reveal that not only hyper-technical approach but also a strict and rigid view has been taken by the first respondent in rejecting the petitioner's application. In the opinion of the Court, the first respondent was not justified in rejecting the application of the petitioner on the technical ground for want of endorsement certificate in proper place, especially when the scheme called SHE-INSPIRE Scheme is benevolent and the objective is providing scholarship to the BPL students. The Hon'ble Apex Court in the case of *Malathi Sardar vs. National Insurance Company Ltd.* (2016) 3 SCC 43 has cautioned against adopting hyper technical approach in interpreting a benevolent provision for the victims of accidents of negligent driving. Hyper technical approach in such matters can hardly be appreciated.

10. In the light of aforesaid, order dated 7.06.2017 issued by first respondent is hereby quashed. A writ of mandamus is issued directing the first respondent to consider the application form of the petitioner and to declare her as eligible for SHE-INSPIRE scholarship. Petitioner shall be permitted to file application form along with endorsement certificate afresh, if need arises.

11. With the aforesaid observation and direction, writ petition is disposed of finally. No order as to costs.