

(2016) 08 KL CK 0061
In the High Court Of Kerala
Case No : WP(C). No. 28344 of 2016 (P)

Kottayam Institute

APPELLANT

Vs

Admission Supervisory Committee

RESPONDENT

Date of Decision : 30-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 KLT 24

Hon'ble Judges : Mr. P.R. Ramachandra Menon and Mr. Anil K. Narendran, JJ.

Bench : Division Bench

Advocate : Sri. Brijesh Mohan and Sri. T.R. Sadeesan, Advocates, for the Petitioner; Sri. S. Radhakrishnan, Sri. S. Raj Mohan and Smt. R. Anjali, Advocates, for the Respondent No. 2; Smt. Mary Benjamin, SC, Admission Supervisory Committee by Sri. S. Krishnamoorthy,

Final Decision : Dismissed

Judgement

Anil K.Narendran, J.—The petitioner is a private self-financing Engineering College affiliated to APJ Abdul Kalam Technological University, the 3rd respondent herein. The petitioner has approached this Court in this Writ Petition seeking a writ of certiorari to quash Ext.P5 order dated 16.8.2016 of the Admission Supervisory Committee for Professional Colleges, the 1st respondent herein, and seeking a declaration that the said Committee does not have any jurisdiction or authority to interfere in the matter of inter-college transfer of students in private self-financing Engineering Colleges in the State.

2. The pleadings and materials on record would show that, the 2nd respondent got admission for B .Tech. (Mechanical) in the petitioner college, during the academic year 2015-16, under State Merit. The 2nd respondent sought for an inter-college transfer to Sree Narayana Institute of Technology, Adoor, during the academic year 2016-17. The said request was turned down by the Principal of the petitioner college. Feeling aggrieved, the 2nd respondent approached the 1st respondent Committee by way of Ext.P2 complaint dated 25.7.2016. In the said

complaint the 2nd respondent has also raised a claim for fee concession.

3. On receipt of notice in Ext.P2 complaint, the petitioner college entered appearance before the 1st respondent Committee and filed Ext.P3 statement dated 16.8.2016 contending that in Ext.P1 norms for inter-college transfer issued by the 3rd respondent University there is no provision which permits transfer of B.Tech. students between private self-financing colleges. As such, there is no illegality in not recommending the request for inter-college transfer made by the 2nd respondent. Regarding the claim for fee concession, the petitioner college pointed out that, in all the certificates issued to the 2nd respondent his caste status is shown as "Nair" and he could not produce any documents in support of his claim for fee concession based on the caste status of his mother.

4. After considering the rival contentions, with reference to Ext.P4 revised norms for inter-college transfer published by the 3rd respondent University, the 1st respondent Committee issued Ext.P5 order dated 16.8.2016 permitting inter-college transfer of the 2nd respondent, as a special case, thereby directing the petitioner college to return him all the original certificates, Transfer Certificate, Conduct Certificate and other documents on or before 18.8.2016. The Registrar of the 3rd respondent University has also been directed to issue necessary orders to the Principal, Sree Narayana Institute of Technology, Adoor to admit the 2nd respondent on inter-college transfer from the petitioner college. Feeling aggrieved by Ext.P5 order, the petitioner college is before this Court in this writ petition.

5. The 2nd respondent has filed a counter affidavit supporting Ext.P5 order passed by the 1st respondent Committee. In the counter affidavit, the 2nd respondent has reiterated the contentions made in Ext.P2 complaint filed before the said Committee. The standing counsel for the 1st respondent Committee has filed a memo producing therewith the fee receipts issued to the 2nd respondent and also his complaint dated 23.8.2016 submitted before the Committee alleging non-compliance of Ext.P5 order by the petitioner college.

6. We heard the arguments of the learned counsel for the petitioner college, the learned Standing Counsel for the 1st respondent Committee, the learned counsel for the 2nd respondent and also the learned Standing Counsel for the 3rd respondent University.

7. The learned counsel for the petitioner college would contend that the 1st respondent Committee lacks jurisdiction or authority to entertain Ext.P2 complaint made by the 2nd respondent and interfere in the matter of inter-college transfer of students in private self-financing colleges in the State. As such, Ext.P5 order cannot be sustained in law.

8. We notice that, there is nothing in Ext.P3 statement filed by the petitioner college or in Ext.P5 order passed by the 1st respondent Committee to indicate that the objection as to lack of jurisdiction was ever raised before the said Committee. Having failed to raise such a contention before the 1st respondent

Committee, the petitioner college cannot now contend that the said Committee lacks jurisdiction to entertain Ext.P2 complaint. We also notice that, one of the specific contentions raised in Ext.P2 complaint is that, the request for inter-college transfer made by the 2nd respondent was rejected since he did not accede to the illegal demand made by the petitioner college to pay the entire fees for the rest of the semesters/years.

9. As we have already noticed, the only contention by the petitioner college in Ext.P3 statement filed before the 1st respondent Committee is that, in Ext.P1 norms for inter-college transfer there is no provision which permits transfer of B.Tech. students between private self-financing colleges and as such, there is no illegality in not recommending the request for inter-college transfer made by the 2nd respondent.

10. As noticed by the 1st respondent Committee in Ext.P5 order, the 3rd respondent University has revised Ext.P1 inter-college transfer norms and the revised transfer norms, i.e., Ext.P4 norms have already been notified on 4.7.2016, which provides for inter-college transfer of B.Tech. students between private self-financing colleges. The learned Standing Counsel for the 3rd respondent University would submit that, inter-college transfer of B.Tech. students between two self-financing colleges is permissible in terms of Ext.P4 revised norms.

11. The Committee has noticed in Ext.P5 order that, the 2nd respondent had applied directly to the petitioner college on 11.7.2016; however the said request was turned down. Thereafter, he has approached the Committee with Ext.P2 complaint, on 25.7.2016. The Committee has also observed in Ext.P5 order that the delay for inter-college transfer has occurred due to the inaction on the part of the petitioner college.

12. Relying on Clause 10 of Ext.P4 revised norms, the learned counsel for the petitioner would contend that, no inter-college transfer is possible unless the request for transfer is supported by the recommendation of the Principal of the college in which the student is currently studying.

13. Clause 2 of Ext.P4 Revised Norms for Inter-college Transfer (B.Tech.) provides that, inter-college transfer shall be permitted before the commencement of the third semester. As per Clause 3, inter-college transfer shall be effected within the sanctioned strength of the college. Going by Clause 6, the 3rd respondent University shall issue notification inviting application for inter-college transfer during the second semester.

14. The eligibility criteria for inter-college transfer are provided under Clause 7 of Ext.P4 revised norms, as per which the candidate should fulfil the academic eligibility requirement for promotion to the third semester. Clause 8 provides that, if the numbers of applicants are more than the seats available, the admission may be based on the GPA obtained in the first semester. Ties will be broken by the marks obtained in the first semester for Mathematics, Physics/

Chemistry taken in that order. A detailed procedure for inter-college transfer has also been provided in Ext.P4, which even contemplates publication of the number of students that can be admitted in each college based on the availability of seats and based on the norms prescribed by the 3rd respondent University.

15. Clause 10 of Ext.P4 revised norms provides that, the request for transfer shall be submitted to the college in which the transfer is sought with the recommendation of the Principal of the college in which the student is currently studying. If Clause 10 is read in its context and harmoniously together with other clauses in the revised norms, especially Clause 7, a conclusion is inevitable that, the "recommendation" contemplated by Clause 10 is a matter of mere procedure, in order to ensure that the candidate fulfils the academic eligibility requirement for the promotion to the third semester, as prescribed by Clause 7 of the revised norms.

16. In the instant case, the petitioner has no case that the 2nd respondent lacks the academic eligibility requirement for the promotion to the third semester. The documents produced along with the counter affidavit filed by the 2nd respondent prima facie show that he had cleared the fees for the first and second semesters. In such circumstances, there was absolutely no valid ground for not recommending the request made by the 2nd respondent for inter-college transfer.

17. In that view of the matter, the 1st respondent Committee cannot be found fault with in concluding that, the delay for inter-college transfer has occurred due to the inaction on the part of the petitioner college and accordingly permitting inter-college transfer to the 2nd respondent, as a special case, by directing the petitioner college to return all his original certificates, Transfer Certificate, Conduct Certificate and other documents on or before 18.8.2016.

18. The 2nd respondent has also stated in his counter affidavit that, in view of Ext.P5 order passed by the 1st respondent Committee he has remitted Rs. 16,000/- at Sree Narayana Institute of Technology, Adoor under the head "welcome kit, books and uniform".

19. In the result, we find absolutely no grounds to interfere with Ext.P5 order passed by the 1st respondent Committee. The Writ Petition fails and the same is accordingly dismissed. No order as to costs.