

(2004) 07 AHC CK 0081

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 18433 of 2004

Maresh Prasad

APPELLANT

Vs

Director, State Educational Research and Training Board U.P.
and Others

RESPONDENT

Date of Decision : 28-07-2004

Acts Referred:

Citation : (2004) 5 AWC 4873 : (2004) 3 UPLBEC 2711

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : M.D. Misra and D.S. Prajapati, for the Appellant;

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Heard Sri M.D. Mishra on behalf of the petitioner and learned Standing Counsel on behalf of the Respondent Nos. 1, 2 and 3.

2. This writ petition can be disposed of without awaiting counter affidavit from the Respondent Nos. 4 to 8.

3. The facts of the case are that petitioner Maresh Prasad claims selection in the B.T.C. Course in pursuance to Pre-admission Entrance Test held in the year 2001. The petitioner for the said purpose had approached this Court earlier and had filed Writ Petition No. 1379 of 2004. The writ petition filed by the petitioner was decided by means of judgment and order dated 24-3-2004 in terms of the judgment passed in Writ Petition No. 56440 of 2003. The order of this Court dated 24-3-2004 reads as follows:

"In both the writ petitions, petitioners who are belonging from OBC/Male/ Arts category are claiming admission in B.T.C. Examination, 2001.

The grievance of the petitioners is that seats are still lying vacant in O.B.C. Category and respondents are not filling up the aforementioned vacancy.

It is well settled that seats shall not go waste.

In these circumstances, respondents are directed that in case, in OBC/Male/Arts category seats are lying vacant, then in that event respondents shall proceed to fill up the aforementioned seats on merit within one month from production of certified copy of this order.

With these observations, writ petition is disposed of."

4. It is contended that thereafter the petitioner had moved an application before the Assistant Registrar for being admitted in B.T.C. Course alongwith the copy of the order of this Court. The Registrar, Departmental Examinations did not issue any order for admission of the petitioner. Hence present writ petition.

5. In the opinion of the Court the present writ petition is legally, not maintainable inasmuch as the earlier writ petition filed by the petitioner had been finally decided by means of the judgment and order dated 24-3-2004, which was also filed for the same relief. Second writ petition for the same cause cannot be entertained. However, for the first time it is being contended on behalf of the petitioner that the persons impleaded as Respondent Nos. 4 to 8 had lower merit than petitioner they were wrongly admitted in the B.T.C. Course and their admission should be cancelled and petitioner should be offered admission.

6. The final examination of the candidates admitted to the B.T.C. Course in pursuance of the entrance test held in the year 2001 stated with effect from 18th May, 2004 and have since been completed. This Court, while dealing with a Similar Writ Petition No. 48158 of 2003, Anuradha Singh v. State of U.P. and Ors., decided vide judgment and order dated 14-7-2004 with reference to the judgment hon'ble Supreme Court reported in Dr Pramod Kumar Joshi Vs. Medical Council of India and Others, , has held that since the academic session has already come to an end, no effective relief can be granted to petitioner seeking admission in the said academic course.

7. The legal position as stated by the Hon'ble Judge, referred to above, appears to be founded on sound legal proposition. The question of admitting the candidate for the first time after the examination have been held, is only a futile exercise inasmuch as the candidate cannot undertake the course which has been already be completed. So far as the admission in the next year is concerned, the same can only be granted in pursuance of the entrance examination held for the admission for the said year. In such circumstances, this Court is in full agreement with the reasoning assigned by the Hon'ble Judge, in the judgment referred to above.

8. Learned Counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court, reported in Judgment Today 2002 (1) SC 193 (Para 7); Shalini v. Kurukshetra University; wherein it has been held that a student should not be permitted to suffer because of the expiry of the time during the pendency of the litigation before a Court of Law.

9. As already noticed above, the earlier writ petition of the petitioner stood

decided by means of the judgment and order of this Court dated 24-3-2004 and the question of petitioner's suffering because of the pendency of the writ petition does not arise in the facts of the case. The judgment relied upon by the petitioner is clearly distinguishable and has no application in the case of petitioner.

10. The writ petition is, accordingly, dismissed. Interim order, if any, stands discharged.