

(2000) 11 P&H CK 0069
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 15750 of 1999

Manjit Singh

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 29-11-2000

Acts Referred:

Constitution of India, 1950 — Article 14, 226, 227
Penal Code, 1860 (IPC) — Section 205, 420

Citation : (2000) 11 P&H CK 0069

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. D.S. Rajaput, for the Appellant; Vikas Cuccria, AAG, Mr. P.S. Patwalia and Mr. J.S. Waraich, for the Respondent

Judgement

R.L. Anand, J.—Manjit Singh was a student of Diploma in Computer Engineering Course IInd year and was studying in Guru Nanak Dev Polytechnic, Ludhiana. He has filed the present writ petition against the respondents under Articles 226 and 227 of the Constitution of India and has prayed for the quashment of the order passed by the Principal, Guru Nanak Dev Polytechnic, Malerkotla Road, Ludhiana. respondent No. 3 on 25.10.1999, bearing No. 346, as well as the order dated 21.10.1999, passed by the Punjab State Board of Technical Education and Industrial Training, Chandigarh, respondent No. 2, alleging that these orders are illegal, unconstitutional, arbitrary and have been passed at the back of the petitioner. He has further prayed that directions be issued to respondent No. 3 to allow the petitioner to attend the classes in the institute for 3rd semester of the course Diploma in Computer Engineering, Further, it was prayed that respondent No. 2 be directed to issue roll number to the petitioner so that he may be able to appear in the 3rd semester.

2. The brief facts of the case are that the petitioner got admission in Diploma in Computer Engineering in the institution of respondent No. 3 in the first semester in the middle of 1998. He appeared in the examination in the months of

December, 1998 and obtained 568 marks out of 800. The petitioner later on appeared in the 2nd semester in the month of May, 1999 and got 557 marks out of 800. It is alleged by the petitioner that the police of Police Station Sarabha Nagar, Ludhiana registered a false FIR on the basis of vague allegations levelled against him under Sections 205 and 420 I.P.C, The petitioner applied for anticipatory bail, which was granted by the High Court on 4.11.1999. Respondent No. 3 passed the order An-nexure P4 vide which the petitioner was suspended from the college on 21.10.1999. It is alleged by the petitioner that the FIR, which has been lodged against him, is false one. Nobody has ever impersonated on his behalf. There was no basis for the registration of criminal case against him. The petitioner has not been convicted by any competent Court of jurisdiction. The mere registration of FIR against the petitioner does not entitle respondent No. 3 to suspend him from attending the classes. The action on the part of respondent No. 3 is illegal, as a result of that the petitioner is not in a position to undertake the examination to be conducted by respondent No. 2. The action on the part of respondent No. 2 dated 21.11.1999 is also illegal. In short, the case of the petitioner is that nobody ever impersonated on his behalf, therefore, the present writ be issued by issuing suitable directions against the respondents.

3. Notice of the writ petition was given to the respondents. Two written statements were filed in this case one by respondent No. 2 and other by respondent No. 3. According to respondent No. 2, the admission to the Engineering Diploma Course in various institutions, which are affiliated to the Punjab State Board of Technical Education is made by the Board on the basis of Joint Entrance Test. A number of centres are set up and were actually set up for holding the Joint Entrance Test in the year 1998. An application for appearing in the Joint Entrance Test was submitted by the petitioner and he was allotted the examination centre set up at Government Senior Secondary School, Punjab Agriculture University Block-I, Ludhiana. On the basis of his appearing in the test and the merit secured by him, the petitioner was admitted to the Diploma in Computer Engineering Course in 1998-99. Thereafter, a complaint was received by one Kuljit Singh Gill that, in fact, the petitioner has never appeared in the Joint Entrance Test, but some other person had appeared who have impersonated the petitioner and sat in the test. On receipt of said complaint, original record was thoroughly examined by the Board and on examination it transpired that the photographs pasted on the admit card and the attendance slip did not tally. On the admit card Manjit Singh had removed the photograph of the person by whom he was impersonated and he has pasted his own photograph before appearing before the Joint Entrance Test Committee. Vide letter dated 8.7.1999, the Senior Superintendent of Police, Ludhiana was requested to register a case against the petitioner. The police came to the office of respondent No. 2 on 17.8.1999 and whole original record was shown to the police. The police was satisfied. Since the petitioner had taken the admission fraudulently, therefore, he was suspended from the college as it was not fair to permit him to continue to reap the fruit of

his fraudulent action. A letter was written by the Board to the college to strike off the name of petitioner from the rolls of the institution. Since the petitioner got the admission by a fraudulent manner, therefore, he is not entitled to any relief in the writ petition.

4. Respondent No. 3 also filed a separate written statement and denied the allegations by stating that no legal point is involved in this writ petition.

5. The petitioner filed re-joinder to the written statement filed by respondent No. 2 in which he reiterated his allegations made in the writ petition by denying those of the written statement.

6. With the writ petition the petitioner has placed some documents such as Annexure P1, the result card of 1st semester, Annexure P2, result card of 2nd semester, Annexure P3, copy of FIR No. 235 registered in Police Station Sarabha Nagar, Ludhiana under Sections 205/420 I.P.C., Annexure P4, copy of notice dated 25.10.1999 vide which the petitioner was suspended from the college roll on the basis of letter dated 21.10.1999 issued by the office of respondent No. 3, due to impersonation of another person in JET-1998, Annexure P5, copy of letter dated 11.11.1999 written by the petitioner to the Principal, Guru Nanak Dev Polytechnic, Ludhiana in which he prayed that he may be supplied the copy of letter dated 21.10.1999 issued by respondent No. 3. Annexure P6 is the copy of visitor's pass. Similarly, some documents were placed on record by the respondents. Annexure R2/1 is the photo copy of the admit card which prima facie shows real Manjit Singh petitioner. A reading of this document would show that this bears a photograph of a Sikh gentleman, who has a small beard and small mustaches. Annexure R2/2 is the attendance slip. It bears a photograph of a Hindu gentleman with no beard but with small moustaches. Annexure R2/3 is the copy of letter written by the office of Punjab State Board of Technical Education and Industrial Training to the Senior Superintendent of Police, Ludhiana vide which it was requested to register a case against the present petitioner and for the investigation of the matter. Annexure R2/4 is the copy of letter dated 21.10.1999 which was written by the Secretary of respondent No. 3 to the Principal, Guru Nanak Dev Polytechnic, respondent No. 2, vide which it was informed that the petitioner was impersonated by another person in the Joint Entrance Test of 1998. It is also highlighted that the photograph pasted on the admit card is quite different from the photograph pasted on the attendance slip and, therefore, the petitioner got himself admitted fraudulently in the institution, and request was made for immediate suspension of the student from the roll of the institution. Annexure R2/5 is the notice dated 26.10.1999 vide which the petitioner was suspended from the college rolls.

7. I have heard Mr. D.S. Rajput, Advocate on behalf of the petitioner, Mr. Vikas Cuccria, AAG, Punjab on behalf of respondent No. 1, Mr. P.S. Patwalla, Advocate on behalf of respondent No. 2 and Mr. J.S. Waraich, Advocate, who appeared on behalf of respondent No. 3.

8. Mr. Rajput, teamed counsel for the petitioner submitted that there are no basis to say that somebody undertook the examination on behalf of the petitioner in the Joint Entrance Test. The basis on which the alleged suspension arose against the petitioner have not been brought on the record. According to the learned counsel for the petitioner, his client is a victim of circumstances. Nobody has impersonated on behalf of the petitioner. It appears a case of enmity when somebody had changed the photograph on the admit card and the attendance slip. Mere registration of FIR does not give a valid basis to the institute for suspension of the petitioner from the college rolls. The petitioner will suffer irreparable injury if his name is suspended from the college rolls and in the event of acquittal by the criminal Court, the petitioner would not be compensated. In the alternative, it was argued by Mr. Rajput that let the petitioner be allowed to undertake his examination subject to the decision of the criminal case.

9. On the contrary, the learned counsel for the respondent No. 2, Mr. Patwalia, vehemently submitted that there are valid basis to proceed against the petitioner. There is an apparent discrepancy in the admit card and the attendance slip. A complaint was received and the case was thoroughly investigated. Record of the department was examined and ultimately it was found that somebody undertook the examination on behalf of the petitioner and the petitioner was fully aware of this fact. He got the admission in a fraudulent manner. The matter is before the Criminal Court. It is a disputed question of fact. No substantial question of law is involved. The petitioner has played a fraud upon respondents No. 2 and 3 in order to get admission in the Course. At any rate, the extraordinary jurisdiction under Article 226 of the Constitution of India should not be invoked in favour of a person who is irresponsible and conspired in the commission of a serious offence especially in an educational institution. The learned counsel appearing on behalf of respondent No. 3 has also supported the submission of Mr. Patwalia.

10. After considering the rival contentions of the parties, I am of the opinion that this writ petition is totally devoid of any merit. The short point for determination is whether there are any basis for respondent No. 2 to proceed against the petitioner and whether the principles of natural justice are required to be complied with in this case before passing the impugned orders. The case of the respondents is very clear that a complaint was received from Kuljit Singh Gill to the effect that the petitioner had never appeared in the Joint Entrance Test but some other person had appeared, who had impersonated the petitioner and sat in the test. On the basis of this complaint the original record was thoroughly examined by the Board and an apparent discrepancy was found between the admit card and the attendance slip. This aspect of the case is fully borne out from the documents Annexures R2/1 and R2/2. Annexure R2/1 is the admit card which shows that the person whose photograph is affixed is a Sikh gentleman with small beard and small moustaches. Specimen signatures of Manjit Singh has also been affixed on this document. The photo copy of Annexure R1/2 is totally different. The photograph is of a Hindu gentleman with no beard but with small

moustaches and there is apparent different between the ages of the persons shown in the photographs. Admit card only gives permission to the holder to go inside the examination hall. The attendance slip authorises the holder to undertake the test. In this view of the matter, it cannot be said at this juncture that there were no basis to proceed against the petitioner. It is a matter to be proved by evidence whether the hand-writing on the answer-sheets tallies with the hand- writing of the petitioner. When there is a disputed question of fact with regard to the identity of a person, such point cannot be adjudicated in the writ jurisdiction. Moreover, the criminal Court is seized of the matter as to whether the petitioner has connived and entered into a criminal conspiracy with another in order to secure his services for his benefits, this point can only be adjudicated and decided by a criminal Court of competent jurisdiction.

11. As I have stated above that there were valid basis available to the respondents for the suspension of the petitioner from the college rolls; the complaint has been verified at the departmental end and on being prima facie satisfied that the petitioner has connived and has taken the services of another person to get admission in a fraudulent manner, it cannot be said that the order is arbitrary, mala fide or without jurisdiction. In this case the principles of natural justice are also not required to be complied with by the respondents when a fraud prima facie has been played upon the respondents.

In the final analysis, this Court finds this writ petition totally devoid of any merit and dismisses the same with no order as to costs.

12. Petition dismissed.