
(2016) 01 AHC CK 0131
In the Allahabad High Court
Case No : Special Appeal No. 2 of 2016

Millenium Institute of Technology

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 08-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 1 AllWC 409 : (2016) 1 UPLBEC 359

Hon'ble Judges : Amreshwar Pratap Sahi and Attau Rahman Masoodi, JJ.

Bench : Division Bench

Advocate : H.S. Jain and Ranjana Agnihotri, for the Appellant;

Final Decision : Allowed

Judgement

Attau Rahman Masoodi, J.—1. Heard the learned counsel for the appellant and learned standing counsel, who has accepted notice on behalf of the respondents. This special appeal is directed against the judgment passed by the learned single Judge in Writ Petition No. 7674 (MS) of 2015, whereby the writ petition filed by the appellant-institution has been dismissed as not maintainable on the ground that the scheme of scholarship being launched for the benefit of the students does not culminate into any justiciable interest of the appellant-institution for maintaining a writ petition under Article 226 of the Constitution of India.

2. The judgment rendered by the learned single Judge has been assailed primarily on the ground that the present case filed by the appellants was squarely covered by the pronouncement of a Division Bench judgment passed by this Court in Special Appeal No. 581 of 2014 and connected matters on 23.2.2015, which has already been upheld by the Apex Court in S.L.P. (C) No. 14419 of 2015.

3. The contention in a nutshell is to the effect that 34 students are being imparted education by the appellant-institution who are in the category of SC/ST/OBC/General to whom scholarship is payable but their forms could not be

forwarded to the department on account of some technical fault of the server through e-process.

4. A similar dispute had also previously come up for consideration before the learned single Judge of this Court, which was allowed in terms of judgment dated 3.7.2014 passed in a bunch of writ petitions, leading case being Writ Petition No. 632 (M.S.) of 2014. The judgment passed by the learned single Judge was assailed in a bunch of special appeals, leading case being Special Appeal (Def.) No. 581 of 2014 and the appeals filed by the State Government against the said judgment were dismissed. The Division Bench while deciding the appeals made certain observations in respect of the stand taken by the State Government. The relevant portion of the Division Bench judgment for ready reference is extracted below:

"In the given set of facts and looking to the purpose of the Scheme, the learned single Judge cannot be faulted in taking a view befitting the nature of the beneficial Scheme.

So far as the suggestion that it remains a budget specific scheme and liabilities of one financial year are not carried forward is concerned, we are clearly of the view that once the State Government has declared such nature Scheme, it cannot be allowed to suggest any want of budget or finances to deprive the bona fide eligible candidates of their legitimate expectations. Noteworthy it is that under the Scheme, the eligible candidates are the persons belonging to Scheduled Castes and Scheduled Tribes who are permanent or original residents of the State of U.P. More significantly, under the Scheme, an eligible candidate is provided financial support for entire of his course of study. In other words the support under the Scheme is not limited to one particular financial year only but is of recurring nature during the course of studies of the candidate concerned. The learned counsel for the appellants has repeatedly referred to the expression "limited financial resources" as occurring in Clause 11(iv) of the Scheme. We are unable to appreciate as to how such an expression could result in denial of the financial support to an eligible candidate only for some delay in submission of online application form. Looking to the very nature and purpose of the Scheme, the time limit as provided in the schedule of procedure for submission and dealing with the applications cannot be said to be that of such an inflexible nature that it may not admit even of reasonable relaxation in desirable cases.

We may observe that genuineness of the claim as made by the petitioner-institutions or the petitioner candidates had not been the question raised before the learned single Judge. In the given set of facts and circumstances, it appears just and appropriate to endorse the view taken by the learned single Judge with necessary observations which permits the appellants to process the applications in accordance with law and to carry out necessary scrutiny as regards bona fide and eligibility of the institutions and candidates concerned.

Accordingly, and in view of the above, these appeals are dismissed and the order

as passed by the learned single Judge is affirmed. However, in the interest of justice, we do make it clear that dismissal of these appeals shall have the result of approval of the directions of the learned single Judge for acceptance of the applications within time granted and with the qualification that no further enlargement of time would be granted. Further, in the interest of justice, it is provided that if the applications have been submitted within the stipulated time, the same would be entertained and processed in accordance with law and in such processing, it would, of course, be open for the appellants to carry out scrutiny, if considered necessary, as regards bona fide and eligibility of the institution and of the candidate concerned; but the entire process, including actual payment in desirable cases, shall be completed by the appellants expeditiously, and in any case within 60 days from the date of receipt of the certified copy of this order."

5. Learned standing counsel does not dispute the bona fides of the students and claim of the appellants being similar to that which was decided by this Court in terms of the Division Bench judgment referred to above. It is also not the case of the State Government that the students, in respect of whom the disbursement of scholarship is claimed in the bank accounts of students, who are recipients of the same benefit during previous sessions, is a question of doubt or the bona fides of the institution for laying such a claim is otherwise faulty except for the reason that there is delay in forwarding the form due to technical reasons. In such a situation, it is difficult to accept that the institution, which ultimately imparts education to a special category of students for whom the scheme is applicable and who are admitted in the institution by giving necessary relaxation, may not have a locus to file the present writ petition particularly when the students are already completing their studies and may claim requisite certificates either from the institution or the body competent to grant such certificates, which may remain withheld for non-payment of requisite fee by the students to the appellant college.

6. Once the bona fides of the students are not a subject matter of doubt and the students are entitled to the scholarship, as claimed, and are under an obligation to make payment of necessary fee to the appellant-institution, it is difficult to hold that the institution does not have any justiciable interest to represent the cause on behalf of the students who are being educated.

7. The learned single Judge, while dealing with the matter, has not considered this aspect of the matter and has, rather, proceeded on the premise of another Division Bench judgment passed by this Court in Writ-C No. 56695 of 2014. The judgment passed by the Division Bench in the aforesaid writ petition appears to be in respect of some distant education program and the issue involved in that writ petition challenging the very scheme of disbursement of scholarship in the bank accounts of the students, does not appear to be an issue similar to the one dealt with by the Division Bench in the judgment dated 23.3.2015 passed in Special Appeal No. 581 of 2014 against which the S.L.P. has also been dismissed by the Apex Court. Once the students are regularly studying and their details are

forwarded to the State Government for necessary verification, there does not seem to be any good reason for the State not to include the claim of the students who are represented by the appellant. The students in whose accounts the necessary scholarship in terms of the scheme is to be disbursed by the State Government are not to be compelled to litigate for bona fide claims. It is true that every student has to apply as per the time schedule prescribed in the scheme but in a situation where the necessary forms have been submitted but all the details could not be forwarded to the State authorities timely due to some technical reason beyond the control of the students, any such objections pressed by the State Government before the learned single Judge ought not to have weighed over and above the object of the scheme which the State Government is under a bounden duty to implement.

8. There is yet another feature of distinction in the case set up before us as compared to the Division Bench judgment dated 11.12.2014. In the present case, before the learned single Judge the appellants have categorically stated that they have not assailed the scheme, according to which the students are eligible for scholarship and have also not prayed for direct disbursement of the scholarship in the accounts of the institution but what the appellant had prayed for in the writ petition is for extending the benefit of scheme to the respective students who are being imparted education through the appellant-institution. Once the prayer is made for disbursement of the scholarship as per the terms of the scheme, to doubt the locus of the appellant in such a situation, would amount to defeating the very object of the policy of the State Government, according to which the students belonging to reserved category classes are entitled to avail the benefit of scholarship through various institutions recognized by the State.

9. In our considered opinion, the judgment passed by the learned single Judge, in the facts and circumstances of the present case, calls for interference and the same is hereby set aside.

10. The respondents are directed to extend the benefit of scholarship scheme to the students whose details have been forwarded by the appellant-institution even if the students have failed to submit all the necessary details before the cut-off date, however, it shall be open to the State authorities to verify the bona fides of all such students. The claims of all the eligible students shall be included in the process for actual payment and the entire process shall be completed expeditiously and not later than a period of two months from the date of receipt of a certified copy of this order by the competent authority. The special appeal thus, stands allowed with no order as to cost.