
(2004) 05 JH CK 0084
In the Jharkhand High Court
Case No : LPA No. 147 of 2004

National Institute of Technology

APPELLANT

Vs

Chandra Shekhar Chaudhary and Others

RESPONDENT

Date of Decision : 13-05-2004

Acts Referred:

Citation : (2004) 4 JCR 372

Hon'ble Judges : P.K. Balasubramanyan, C.J.; Hari Shankar Prasad, J

Bench : Division Bench

Advocate : M.S. Mittal and Manish Mishra, for the Appellant; M.S. Anwar and Sunil Kr. Sinha, for the Respondent

Final Decision : Dismissed

Judgement

This Judgment has been overruled by : National Institute of Technology, Jamshedpur and Others Vs. Chandra Shekhar Chaudhary, AIR 2007 SC 463 : (2007) 113 FLR 456 : (2006) 12 SCALE 30 : (2007) 1 SCC 93 : (2007) 1 SCC(L&S) 1 : (2006) 8 SCR 1102 Supp

P.K. Balasubramanyan, C.J.—This appeal by respondent 1 in WP @ No. 3966 of 2003 challenges the decision of the learned Single Judge allowing that writ petition filed by the respondent herein and directing the appellant to relieve the respondent herein within a week of receipt of a copy of the judgment so as to enable him to pursue Ph.D. Course in Indian Institute of Technology, Madras.

2. The writ petitioner is an Associate Professor in Metallurgical Engineering Department of the National Institute of Technology, Jamshedpur, the appellant herein. According to the writ petition, the writ petitioner submitted an application for admission in Quality Improvement Programme (QIP) sponsored by AICTE through the Regional Institute of Technology, Jamshedpur. He was selected for admission in Indian Institute of Technology, Madras and was asked to appear at that institution for completing preregistration formalities. According to the writ petition, though he made an application to the appellant for relieving him to

make the pre-registration visit, he had been illegally and arbitrarily denied the permission by the appellant. According to the writ petitioner, the action of the appellant was unreasonable and was also discriminatory. The appellant resisted the writ petition by pointing out that according to the norms, if on relieving a person to attend such a programme, the staff strength in that department would go below 70 percent of the fixed capacity, the permission was being denied and if the writ petitioner was to be relieved as sought for by him, the strength in that department would be reduced to 61,9% of the sanctioned strength and it was in that situation that he was not accorded permission to get himself registered for the course. It was also submitted that even originally, while forwarding his application, the writ petitioner had been informed that he would be able to pursue his course only if he could be relieved from the institute and only if on his being relieved. The staff strength would not be reduced below 70%. The plea of discrimination was denied and it was submitted that the writ petitioner was deliberately attempting to malign the department by raising the bogey of his being a member of a Scheduled Caste and was trying even to blackmail the authorities by threatening that he would commit suicide if he was not relieved. The writ petition deserves to be dismissed.

3. The learned single judge found that even though there was a norm providing for refusal of permission to a teacher to go in for such a course if the staff strength would be reduced below 70%, the said regulation or provision had been breached often and in that situation, it was not fair to deny the writ petitioner alone the opportunity by relying on such a norm. The learned Single Judge, therefore, allowed the writ petition and directed the appellant to relieve the writ petitioner.

4. Challenging the decision of the learned Single Judge, it is submitted that the norm was very clear and if the writ petitioner is not relieved based on such an accepted norm, the learned Single Judge should not have compelled the appellant to relieve the writ petitioner. It was also submitted that the conduct of the writ petitioner was such that it was not a fit case for interference by this Court. Subsequently, it was also brought to our notice that pursuant to an administrative decision dated 9.11.2003 of the Ministry of Human Resources Development, H.R.D., the Board of Governors had adopted the Leave Rules and Conduct Rules of the Indian Institute of Technology, Delhi for implementation in the Institute and this decision was taken on the day the learned Single Judge heard the writ petition and reserved orders. Therefore, when on 19.1.2004, the learned Single Judge pronounced Judgment under appeal, the Indian Institute of Technology, Delhi Rules had already come into force and going by those Rules, no member of the teaching staff could be relieved for such a course, if the available strength of the staff gets reduced below 85%. In other words, only a quota of 15 percent could be permitted to pursue such a course. Since this Rule had come into effect, the direction issued by the learned Single Judge had become unsustainable. On behalf of the writ petitioner, the respondent herein, it was contended that the new Leave Rules had no application since the process

involved in the present selection was undertaken long prior to 14.1.2004 and that this was an aspect that was pleaded before the learned Single Judge and this adoption of Indian Institute of Technology, Delhi Rules cannot affect the case on hand. It is also submitted that the learned Single Judge has found that others similarly situated as the writ petitioner, had been relieved and the concerned Regulation that earlier existed, was not being Implemented uniformly and in that situation, the decision of the learned Single Judge was justified and did not call for interference. In reply, it was pointed out on behalf of the appellant that other teachers had been denied permission on the basis of staff strength being reduced below 70% and the upholding of the claim of the writ petitioner would mean that the others who had been denied, would also have to be accommodated and it would seriously affect the students, if all these permissions are given.

5. Normally, we would have been inclined to agree with the appellant that when the norms prescribe that the strength should not be reduced below 70% by relieving a teacher for going in for such a programme, such a teacher could not or should not be relieved. In this case. we find that the said norm has not been uniformly implemented by the appellant in its earlier "awatar".

6. Paragraph 18 of the original counter affidavit and paragraph 8 of the supplementary counter affidavit filed on behalf of the appellant in the writ petition clearly show that in certain cases, the rule of 30% had been violated. The stand adopted is that that did not mean that the said guideline should continue to be ignored and violated. It appears to us that an institution like the appellant, did not have the right to violate the norms or the guidelines fixed for itself, whatever be the alleged contingency .But since it is seen that the appellant had not uniformly applied that guideline, we are inclined to think that the learned Single Judge was justified in intervening at the instance of the writ petitioner and directing him to be relieved. It is, no doubt, true that on the writ petitioner being relieved, the strength in the concerned department will be reduced to 61.5.% of the sanctioned strength and that may affect the students. But then the appellant should have kept this in mind when considering the claim of others with reference to the minimum requirement. That not having been done by the appellant, we are not inclined to interfere with the decision of the learned Singh Judge.

7. Before leaving this case, we cannot but comment on the conduct of the writ petitioner, the respondent, before us. He is a member of a faculty of a prestigious institution, like the appellant-Institute. He is a person who holds a post-graduate degree. One would expect him to behave as a responsible don engaged in imparting education to the students. One does not expect him to flaunt his status in season and out of season or to show lack of strength or mental instability as to threaten others that he will commit suicide, if his demands are not met. One would expect a teacher, that too a qualified teacher like the writ petitioner, to have the mental strength and resilience to face situations with equanimity and not to go-off handle at the least provocation. To

say the least, we are totally dissatisfied with the conduct of the writ petitioner and at one stage, we were even wondering whether such a person could be a good teacher in an institution like the appellant. One hopes that at least hereafter the writ petitioner would show more maturity, shed his complexes and try to behave more like a rational human being.

8. We also think it necessary, now that the Indian Institute of Technology, Delhi Rules have been adopted by the Board of Governors with effect from 14.1.2004 that the institute will strictly implement those Regulations. It will ensure that there is no departure from the Regulations in any manner. It is only when a body like the appellant bends the Rules in favour of one, that the others are given an opportunity to claim the same bending of the Rules. A prime institution like the appellant should avoid such a contingency and should ensure that it makes no departure or deviation from the Regulations and the Rules it has set for itself. After all, the Rules and/or Regulations have been framed in the Interests of the institution and the students studying therein. These interests cannot be sacrificed at the altar of convenience at the cost of the institution and its students, whatever may be the pressures that are sought to be brought on, on the institution.

9. We are, therefore, satisfied that we should direct the appellant to strictly follow the Rules framed by it and to ensure that there is no departure from it.

10. Thus, though we find some force in the arguments on behalf of the appellant that the Court cannot direct the norms or guidelines to be violated, we are not interfering with the decision of the learned Single Judge in view of the fact that the guidelines or norms had been bent and broken in respect of the certain others. We, therefore, confirm the decision of the learned single Judge and dismiss this appeal.