

(2000) 08 AHC CK 0126

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 31757 of 2000

Pravesh Kumar

APPELLANT

Vs

Vice-Chancellor, Banaras Hindu University and Others

RESPONDENT

Date of Decision : 24-08-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Evidence Act, 1872 — Section 115

Citation : AIR 2000 All 369 : (2000) 3 UPLBEC 2362

Hon'ble Judges : A.K. Yog, J

Bench : Single Bench

Advocate : G.K. Singh and V.K. Singh, for the Appellant; V.K. Upadhyay, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Yog, J.—Pravesh Kumars on of Sabhajit Singh resident of 506/108, Housing Scheme Mumfordganj, Allahabad has filed this petition against the officers and authorities of Banaras Hindu University, Varanasi responsible for conducting Pre-medical Test 2000 and to prepare merits list for admission to First Year MBBS Course 2000-2001 (hereinafter called "Examination"). Petitioner has prayed for a writ of mandamus commanding the respondents to grant admission to the petitioner in First Year MBBS Course 2000-2001, any other writ, order of direction as this Court may deem fit in the circumstances of the case to meet ends of justice, and to award costs of the petition.

2. On Civil Miscellaneous Application No. 63464 of 2000 filed by the petitioners, this Court passed order dated August, 11, 2000

-- "As agreed by the learned counsel for the parties, the case may be taken up after lunch, today, Summon the record."

Accordingly, case taken up on 11th August, 2000.

Learned counsels for the parties present and with their consent, case is being

heard.

3. Respondents have filed "Short Counter Affidavit", sworn by Lal Babu Patel, Senior Assistant, Institute of Medical Sciences, Banaras Hindu University, Varanasi, which is on record. Along with the said Counter Affidavit Respondents have annexed copy of the "Office Order", dated 21st July, 2000.

4. No Rejoinder Affidavit has been filed by the petitioner nor counsel for the petitioner prayed for further time to the same.

5. Respondents have produced in original for perusal following documents. Relevant extracts from the same are reproduced (Portion marked* are hand written);

(1) "BROCHURE-PMT/PAT 2000-FOR ADMISSION TO 1ST Year M.B.B.S./B.A.M.S./B.D.S. -- INFORMATION BOOKLET AND APPLICATION FORM FOR THE MEDICAL TEST (PMT) AND PHARMACY ADMISSION TEST (PAT) BANARAS HINDU UNIVERSITY VARANASI.

Clause 1. under title "IMPORTANT MUST" -- on the back of the front-page reads :--

"1. Undertaking on Forms "A" and "B" should be signed by Candidate himself/herself.

2.

3.

Page Nos. 5, 6, 9, 11 and 12 of the Booklet reads :--

"2.1. Candidate who fulfils the above eligibility requirements shall apply on the prescribed application form per PMT/PAT 2000 and shall be required to appear in the combined Competitive Entrance (PMT/PAT) Examination to be conducted by the Banaras Hindu University for purpose of admission to the first Year M.B.B.S. / B.A.M.S./B.D.S. Pharma, course.

"3. 1 THE LAST DATE FOR RECEIVING REQUISITION FOR SUPPLY OF APPLICATION FORM BY POST SHALL BE TUESDAY THE 22ND FEBRUARY-2000.

NOTE :

(I) REQUISITION RECEIVED AFTER LAST DATE i.e. 22nd FEBRUARY 2000 SHALL NOT BE ENTERTAINED, THE INSTITUTE SHALL NOT UNDERTAKE ANY CORRESPONDENCE IN THIS REGARD.

(II) THE INSTITUTE TAKES NO RESPONSIBILITY FOR ANY POSTAL DELAY OR LOSS IN POSTAL TRANSIT OF APPLICATION OR CORRESPONDENCE.

"3. 2 THE APPLICATION FORM WILL HOWEVER CONTINUE TO BE SOLD AT BENARAS STATE BANK AS SPECIFIED IN ADVERTISEMENT NOTIFICATION ON ALL WORKING DAYS EXCEPT SUNDAY 7 HOLIDAYS TILL MONDAY THE 13TH MARCH, 2000.

"4. 1 The completed application form should be sent by Registered post in the envelope No. 1 supplied with the application form for the purpose to the CONTROLLER OF EXAMINATION (PMT/PAT CELL). Banaras Hindu University, Varanasi 221005 so as to reach him on or before Wednesday 15th March, 2000.

4.2

4.3

4.4

"10.1 All the particulars in the application form must be written carefully and legibly by the candidate in his/her own hand writing and should be accompanied with the following :

(a) & (b)

"11.9 No candidate shall be allowed to appear in the PMT/PAT unless he/she possesses the valid "ADMIT CARD" issued by the Office of the Controller of Examinations, BHU.

NOTE :

The candidate should read with the institutions given in the information Booklet of PMT/PAT carefully and shall follow them strictly in letter and spirit.

"12.4. No scrutiny/re-evaluation of the answer sheet of the PMT/PAT shall be allowed, nor any representation thereof shall be entertained.

NOTE :

ADMISSION SHALL NOT BE CLAIMED BY ANY CANDIDATE AS A MATTER OF RIGHT. THE ADMISSION SHALL BE ENTIRELY AT THE DISCRETION OF THE ADMISSION COMMITTEE OF THE CONCERNED INSTITUTE WHICH MAY REFUSE TO ADMIT ANY CANDIDATE WITHOUT ASSIGNING ANY REASON THEREFOR."

13.2 The selected candidates shall be required to appear before the Admission Committee personally for interview.

17. IN CASE OF ANY DISPUTE THE DECISION OF THE ADMISSION COMMITTEE SHALL BE FINAL. HOWEVER, AN APPEAL MAY LIE TO THE VICE CHANCELLOR, BANARAS HINDU UNIVERSITY AGAINST SUCH DECISION. IN NO CASE ANY CANDIDATE SHALL TAKE RECOURSE TO THE COURT OF LAW DIRECTLY. :

(II) APPLICATION FORM --

On its back is printed "CHECK LIST" Paragraph Nos. 2 and 3 reads --

"2. Form C containing Registration Card and a Provisional Admit Card, duly filled in and with Identical Photograph, PLEASE DO NOT FORGET TO PUT SPECIMEN SIGNATURE ON BOTH. DO NOT USE XEROXED PHOTOGRAPH ANY WHERE.

3. Form D (Basic Data) to be used in computer centre (The candidate should fill

in the boxes on this form very carefully)."

(III) "FORM A- FOR PMT

"To be filled by the candidate in his/her own hand writing by ball point pen (please read the Information Booklet and the forms carefully before filling in).

1 to 6*

7. Postal Address -- OASIS INSTITUTE D-211, LAXMAN SINGH COMPLEX, BABA GANG NATH MARKET MUNIRKA NEW DELHI.

8 to 17

UNDERTAKING BY THE CANDIDATE

1. *Pravesh Kumar declare that I have read the rules as given in the Information Booklet and that all the information furnished herein are true. All attested/certified true copies of certificates/marks sheets are attached. In case any information furnished by me as above is found wrong, my candidature for the PMT/PAT Examination/Selection to the Course may be cancelled outright and disciplinary action taken against me. I declare that I am an Indian National.

Date: *7-3-2000 Sd/- Travesh Kumar Place : *Delhi Full Signature of the Candidate (TO BE SIGNED BY THE CANDIDATE ONLY)

ORDER OF ARRANGING VARIOUS DOCUMENTS :

1 to 8

Note : I certify that all the above documents along with enclosures desired (copies of Certificates and Marks Sheets as per the list given in Information Booklet on Inside back cover) are enclosed.

Date : *7-3-2000 Sd/- *Pravesh Kumar *Delhi Full Signature of Candidate (To be signed by candidate only)". (IV) FORM B -- FOR PAT

"To be filled by the candidate in his/her own hand writing by ball point pen (please read the Information Booklet and the form carefully before filling in).

1 to 16."

"UNDERTAKING BY THE CANDIDATE

I, *Pravesh Kumar declare that I have read the rules as given in the Information Booklet and that all the information furnished herein are true. All attested/certified true copies of the certificate/marks sheets are attached. In case any information furnished by me as above is found wrong, my candidature for the PMT/PAT Examination/ Selection to the Course may be cancelled outright and disciplinary action taken against me. I declare that I am an Indian National.

Date : *7-3-2000 Sd/- *Pravesh Kumar Place : *Delhi Full Signature of the Candidate (To be signed by the candidate only)" (V) "FORM C REGISTRATION

CARD

"All entries below are to be filled in COMPLETELY by candidate in his/her own handwriting by Ball Pen.

1. Name of the Candidate : *Pravesh Kumar

(In Capital Letter) 2 to 8 *.....

9. Specimen Signature of the candidate :

*Pravesh Kumar

(DO NOT SIGN IN CAPITAL LETTERS)

10. Signature of the Candidate at the time of the Test:

(TO BE FILLED ONLY IN EXAMINATION HALL)

-----	Candidate's	Signature	of
Name	of	Signature	Invigilator
-----	Invigilator	during	test
-----	*Pravesh Kumar	Sd/illegible	

Dr. A. Mishra" (VI) "PROVISIONAL ADMIT CARD

INSTRUCTIONS FOR CANDIDATE (ON THE BACK OF PROVISIONAL ADMIT CARD)

1 to 5*

6. Specimen signature of candidate

Sd/- *Pravesh Kumar

(DO NOT SIGN IN CAPITAL LETTERS)

7.

(See On the Back of Provisional Admit Card)

"1 TO 10 INSTRUCTION FOR CANDIDATE THE ADMIT CARDS BEING ISSUED PROVISIONALLY SUBJECT TO THE SCRUTINY OF THE ELIGIBILITY. IT IS ONLY AFTER VERIFICATION OF THE ELIGIBILITY THAT THE CANDIDATES WOULD BE CONSIDERED FORADMISSION. MERE APPEARING OR QUALIFYING IN THE TEST DOES NOT ENTITLE A CANDIDATE FOR SELECTION/ADMISSION."

(VI) "FORM D - BASIC DATA -- BANARAS HINDU UNIVERSITY

"Candidates are advised to read the instructions below carefully filling in the boxes.

1 to 12*

"I hereby declare that all the particulars stated above have been filled in my own handwriting and that the information given by me in the application are true and no relevant fact has been suppressed. I have read the information booklet and satisfied myself that I fulfil all the PMT/PAT-2000 eligibility requirements.

Sd/- *Pravesh Kumar

Full Signature of Candidate

(VII) ORIGINAL ENTRANCE EXAMINATION ANSWER SHEET PMT/PAT-2000

Roll No. Question Booklet No.

(Write by Ball-Point pen) (Write by Ball-Point Pen)

*(1)(3)(9)(6)(2) *(1)(3) (9) (6) (2)

(THIRTEEN THOUSAND NINE HUNDRED SIXTY TWO)

(VIII) FORM FILLED AT THE TIME OF ADMISSION ON 15-7-2000.

Name of student: *Pravesh Kumar Father's Name : *Sabhajit Singh Residential Address : *P.V.I. Quarter, Janta Market, Chhotagovindpur. Jamshedpur, Bihar Telephone No. : *(0657) (487368) Your PMT-2000 Roll NO. ROLL NO. IN DIGITS (WRITE BY BALL-POINT PEN)

*(1)(3)(9)(6)(2)

ROLL NO. IN WORDS (Write by Ball-Point Pen)

*(THIRTEEN THOUSAND NINE HUNDRED SIXTY TWO)

Sd/- *Pravesh Kumar

(I)) WRITTEN STATEMENT OF THE PETITIONER ON 15TH JULY 2000 :--

To,

The Director, I.M.S. B.H.C.

Sir,

Respectfully I beg to say that I was preparing for entrance Exam in Delhi as the last date to submit B.H.U. Form was 15-3-2000 and unfortunately could not get B.H.U. Form in Delhi so on my request my friend Mohd Vakil Khan filled up my Form in his own hand-writing and signed for me on the admit card and Application Form.

Therefore I request to admission committee to do any judgment seeing my career for which I have made a long effort and also I have left opportunity to get admission in Bharati-vidyapeeth.

Name -- Pravesh Kumar Father's name -- Sabhajit Singh Pravesh Kumar Address of Mohd Vakil Khan

Near Katra market

Allahabad."

(X) HANDWRITING EXPERT REPORT-

"TO,

The Prof. V. P. Singh, DIRECTOR, Institute of Medical Sciences, Varanasi --221 005

Sub:-- EXPERT opinion on the disputed and admitted signatures, and writings on ANSWERS-SHEET, FORM "C", ADMITCARD, SIGNATURE AT THE TIME OF EXAMINATION IN EXAMINATION HALL, ON FORM "C" and signature on reporting detail on 15-7-2000 before Admission Committee etc.

Dear Sir,

This is to certified that I have examined and compared the disputed and admitted signatures along with writings of eight students of 1st Year M.B.B.S. for Session 2000-2001 of I.M.S., B.H.U., Varanasi. on application form "B" and registration card "C", Admit-Card, Answer-sheet, A sheet with details of certificates at the time of admission before admission committee on 15-7- 2000, etc. of the following students :--

NAME ROLL NO. 1. Mr. Ajay Kumar Singh 10748 2. Mr. Lallu Prasad Meena 29251 3. Mr. Ram Krishna Murmu 37624 4. Mr. Kumark Shambhu Nath 36953 5. Mr. Ramesh Kumar Rajwar 41477 6. Mr. Pawan Kumar 37443 7. Mr. Anant Kumar 36009 8. Mr. Pravesh Kumar 13962 I have examined and compared all signatures and writings in original with scientific Instruments thoroughly, scientifically and high magnifications and with all possible instruments and my opinion are as under.

OPINION :--

After scientific examination and comparison of the signatures and writings related to Mr. Pravesh, Kumar I found that the writing on Answer-sheet is quite different from the writings of sheet dated 15-7-2000 which is written before admission committee and also the signature of FORM "C" is different which is signed by the examinee in the examination hall. The other writings and signatures on admit-card, on application form and on form Care inter se different from the writings of sheet dated 15-7-2000 which is written on 15-7-2000 before admission committee. Thus there are three different persons one has filled the form of application admit-card etc. with false signatures also, the second man signed as examinee before invigilator in the examination hall at the time of examination and 3rd man appeared before admission committee on 15-7-2000.

RESULT:-- i) The answer sheet, and form C have forged signature of Mr. Pravesh Kumar Roll No. 113962 and also the writing of answer sheet is forged.

Submitted.

Sd/- illegible 16-7-2000 Seal

(S. IRTAZA HUSSAIN TAJO)

Documents Examiner, H. W. and F. P. EXPERT VARANASI"

Office order dated 21st July 2000 (Annexure I to Short Counter Affidavit) which reads-

"OFFICE ORDER

I have been directed to communicate the following order dated 21-7-2000 of the Director and Chairman of Admission Committee I.M.S. for necessary compliance :

Whereas.

Whereas.

WHEREAS the aforesaid Sri Pravesh Kumar appeared in person before the Admission Committee on 15th July 2000.

WHEREAS the aforesaid Sri Pravesh Kumar was asked to fill up and sign some forms and required at the time of interview for verification and authenticity of his candidature, Sri Pravesh Kumar aforesaid filled in the signed those forms;

WHEREAS the Admission Committee verified the Application Form along with all the enclosures, photograph and signature as submitted by the aforesaid Sri Pravesh Kumar for appearing in the BHU PMT/PAT-2000, the original certificates etc. and the aforesaid forms which he filled in and signed on 15th July, 2000;

WHEREAS the Admission Committee, on verification as aforesaid, found discrepancy in the signatures of the aforesaid Sri Pravesh Kumar as were obtaining on the aforesaid application form, admit card and the forms given to him to be filled in and signed on the date of interview i.e. 15th July 2000 as aforesaid;

WHEREAS the Admission Committee after finding the aforesaid discrepancy also verified the Handwriting of the aforesaid Sri Pravesh Kumar on the aforesaid forms and his Answer Sheet of the BHU PMT/PAT-2000 held on 4th June 2000 :

WHEREAS the Admission Committee on such verification found that the handwriting on the Application Form, Form "C" and the Answer Sheet are different from each other;

WHEREAS the Admission Committee, in order to confirm the above discrepancy about aforesaid Sri Pravesh Kumar also asked from him as to how these discrepancies have occurred:

WHEREAS the aforesaid Sri Pravesh Kumar confessed in writing in his letter dated 15th July, 2000 addressed to the Director, institute of Medical Sciences, B.H.U. as quoted below :

"..... (quoted above on page 8)".

WHEREAS the Admission Committee, after finding the aforesaid discrepancy in Signature as well as in Handwriting as stated above, and also the confession of the aforesaid Sri Pravesh Kumar as quoted above, decided to refer the matter to

a Handwriting Expert and accordingly the whole records/ documents as aforesaid referred to Mr. S. Irtaza Hussain Taj, Document Examiner and Expert in Forensic Science, Handwriting and Finger, Print Expert, Varanasi for his expert opinion;

WHEREAS aforesaid Mr. S. Irtaza Hussain Taj in his expert opinion dated 16th July 2000 opined as quoted below :

(quoted above on page 9)

In conclusion aforesaid Mr. Irtaza Taj has stated as follows :

"The answer sheet, and from C have forged signature of Mr. Pravesh Kumar Roll No. 13962 and also the writing of answer sheet is forged" .

WHEREAS the candidates for BHU PMT/ PAT-2000 were clearly instructed on the very face of the Form "A", "B" and "C" of the application form that To be filled by the candidates in his/her own hand writing by ball point pen/Ball Pen."

WHEREAS the aforesaid Sri Pravesh Kumar was asked to appear again before the Admission Committee on 18th July, 2000 at 3.00 p.m. to get the aforesaid discrepancy in Signature and Handwriting, as also confessed by him as quoted above, clarified from aforesaid Sri Pravesh Kumar.

WHEREAS the Admission Committee, after hearing aforesaid Sri Pravesh Kumar on 18th July, 2000 at 3. p.m. resolved as follows :

"Resolved unanimously that after verifying in detail all the documents in respect of Sri Pravesh Kumar, S/o Sri Sabhajeet Singh, bearing BHU PMT/PAT-2000 Roll No. 13962, considering in detail the expert opinion dated 16-7-2000 of Mr. S. Irtaza Hussain Taj, Document Examiner and Expert in Forensic Science, Handwriting and Finger print Expert, Varanasi and confession dated 15-7-2000 made by Sri Pravesh Kumar, S/o Sabhajeet Singh, and also his fraudulent act, the candidature of Sri Pravesh Kumar, S/o Sabhajeet Singh to the BHU PMT-2000 be cancelled."

NOW THEREFORE, the candidature of the aforesaid Sri Pravesh Kumar, S/o Sri Sabhajeet Singh, for BHU PMT/PAT-2000 is hereby cancelled.

Sd/- illegible Deputy Registrar Institute of Medical Sciences, Banaras Hindu University"

6. Before dealing with the above documents and the office order quoted above that in Form A petitioner indicated his postal address of New Delhi whereas in option Form dated 15th July 2000 it is of Jamshedpur, Bihar. In this writ petition, his address is of Mumfordganj, Allahabad. The petitioner has thus given different addresses at different places. There is no explanation in the petition for this discrepancy.

7. Heard learned counsels for the petitioners as well as the Respondents.

8. Learned counsel for the petitioner did not deny/dispute or controvert

correctness of the original documents produced by the respondents and referred to above.

9. On behalf of the petitioner it is argued that "lone circumstance" that the petitioner had not written by self in the blank columns in concerned forms, in the circumstances indicated by the candidate in his confessional letter dated 15th July 2000, is of no consequences inasmuch as the petitioner straightway furnished explanation, (i.e. his inability to get form at Delhi) as soon as he was required in the enquiry and it clearly proves the bona fide of the candidate.

10. Petitioner neither misrepresented nor concealed any fact. He disclosed correct facts promptly, which shows that petitioner acted bona fide, and had no intention to misrepresent or impersonate before concerned authorities. The application form should not have been rejected by the Admission Committee as (sic)

11. Learned counsel for the respondents, on the other hand, submitted that in view of clear "Instructions" and requirement of "declaration" in the Brochure and Application Forms (as disclosed above), petitioner's explanation is not material or relevant if the petitioner acted contrary and in breach of examination rules/instructions.

12. Further, according to the respondents, disclosure was made before admission committee when authorities detected discrepancy in the signatures of the petitioner (appearing on the application form vis-a-vis his signature made on 15th July 2000 before the Admission (Committee) and on suspicion, initiated a probe, gave opportunity of hearing to the petitioner and found petitioner guilty. There was no sound explanation. It may be noted that application form, admittedly, on the instructions of the petitioner, was filled up and submitted by another person on 7th March 2000. There is no explanation as to why petitioner could not come to Allahabad himself, obtain the form and after completing formalities -- submit the same on or before 15th March 2000. As to how the photocopy of Mark Sheets and Certificates of Bihar and U.P. Board (annexed with the application form) could be verified, attested by the "Principal, Eving Christian College, Allahabad¹ unless "Originals" were before him. And if so how these "originals" reached in the hands of the alleged friend of petitioner at Allahabad.

13. There is sufficient force in the contention of the respondents.

14. It may be noted that the petitioner did not disclose "relevant" facts for consideration of the concerned authority at the first opportunity on his own. Rather he was compelled to disclose the same when admission committee grew suspicious and started probing into the matter. The petitioner submitted statement in writing vide letter dated 15th July 2000 finding that he will not be able to establish that original application form was actually filled, signed and submitted by him.

15. In view of the above discussion it is abundantly clear that petitioner never

submitted "Application Form" under his signature nor ever gave declaration (required in the said application form). Not only this, petitioner did not, on his own, volunteer to inform correct facts/position to the concerned authorities before appearing in the Examination on 14th June 2000.

16. Contention of the petitioner that once he was permitted to appear in the examination in spite of variance in signature being noted by the "Invigilator" vide writ para 7 is of no avail. There is no leading on record that said "Invigilator" was an employee or agent having competent authority of the contesting respondents to condone defaults/mistakes/misrepresentation or error of any kind. On the other hand, instruction in Brochure, on Admit Card clearly mentions that no right accrues by appearing in examination and admission in examination is provisional.

17. Petitioner cannot take advantage of equitable principle of promissory estoppel on the facts indicated above and particularly in view of his confession of having acted in breach of the Examination Rules/Terms and Conditions contained in the Brochure and Application Form.

18. It is true, sometimes time factor may cause hardship or even cause irreparable injury. Petitioner has furnished no explanation as to why he could not come to Allahabad for collecting the form from his friend, duly fill it up sign himself and submit it before the last date particularly when he admittedly had a week at his disposal. In any case, candidate cannot be allowed to plead violation of "Rules" of the game on such pleas-like sickness, delay of Postal Department, strike of employees of Uttar Pradesh Road Transport Corporation, etc. Rail Department/break down etc. Uncertainty is both the charm and calamity in like.

19. I find no arbitrariness or irregularity in the action of the respondent authority.

20. Next argument on behalf of the petitioner is that he was not given notice or opportunity to meet the Handwriting Expert Report. At the first instance it will be noted that after his confession/admission that he did not fill up the form, that he acted in violation of categorical instructions contained in the Information Booklet as well as in the relevant application form, petitioner cannot succeed on this ground.

21. In facts are undisputed, no opportunity is required to be given. See M.C. Mehta Vs. Union of India (UOI) and Others, and Sovintorg (India) Ltd. Vs. State Bank of India, New Delhi, . Respondents for their satisfaction and to be sure-took help of an expert. Respondents referred cases of eight students to the expert who has exonerated six students. It shows that the authorities have acted fairly and without bias or mala fide. Authorities would have been fully justified and well within their rights (as per Rules and Instructions) if they would not have called for corroborative evidence/material considering confession/admission of the petitioner. It was apparently done to fortify their conclusion. It shows that authorities had taken due precaution and acted fairly. There is no "Bias" or "Malice". Apart from expert report, there is enough clinching material to cancel the candidature of the petitioner.

22. Exigency or emergency in the matter affords valid ground to waive of rigid rules of Natural Justice as it may frustrate the whole purpose. By following convictional concept of natural justice and procedure like a trial will delay entire academic course involving many other innocent large number of students. See (1996) 7 SCC 5777 (Prs. 72 and 73) Therefore, in this case opportunity is given as will be evident from Annexure-1 to writ petition itself. The reference in office order dated 21st July 2000 (Annexure-1 to Short Counter Affidavit) shows opportunity of hearing was given to petitioner. Recitation to that effect is said order is not disputed. I am of the considered view that the kind of opportunity given in the nature and peculiar of this case, is good and enough and no prejudice demonstrated to have been caused to the petitioner.

23. In the case of Triambak Pati Tripathi Vs. The Board of High School and Intermediate Education, U.P., Allahabad, this Court held that there was no violation of principles of natural justice when the report of enquiry committee was not given to the petitioner. Full Bench held that the principles of natural justice did not require furnishing of a copy of the report to the candidate in certain enquiries in academic field/educational institutions.

24. In the case of Jawaharlal Nehru University Vs. B.S. Narwal, it was held that in the academic performance of students, question of giving opportunity does not arise and court should not interfere except an proof of bias or mala fide being alleged and proved against the concerned authority.

25. In Subhang Saurab Chaturvedi v. State of U.P. 1982 UPLBEC 708 (Pr. 5). this Court held that in case of admission of certain student due to fabrication of tabulation register by some teacher and in absence of any allegation against the student, action, if the student is not given opportunity the action will not be vitiated and that petitioner will not be in a position to give any reply for the grounds/basis of cancellation of result since granting of opportunity of hearing will be merely an exercise in futile.

26. In Israr Ahmad v. Gorakhpur University 1982 UPLBEC 710: (1982 All LJ 1089) dispelled theory of equitable promissory estoppel in favour of a candidate, (who was well aware of correct position) seeking admission, if something was done without the knowledge and consent of the concerned competent authority of the University.

27. In Laxmi Shankar Pandey Vs. Union of India and others, Apex Court held that in the matter of disciplinary enquiry the principles of natural justice must be followed, but what particular rule of natural justice should apply to a given case depends upon to a great extent, on the facts and circumstances of the each case.

28. In the present case it is apparent that the application was admittedly not filled up by the petitioner. He did not comply with the instructions contained in the Brochure. Consequently petitioner was not eligible for appearing in the admission test, as there was no valid application form was submitted under relevant instructions by the petitioner. There was, thus, no valid application form

in the eye of law on the basis of which the petitioner could appear in the Test or claim Admission. Petitioner cannot take advantage of anything being done by the respondents in "ignorance" or "misapprehension". Ignorance of correct fact, absence of negligence and no conscience act of respondents to condone the lapse/act of the petitioner, petitioner cannot be permitted to plead "estoppel" or "acquiescence" or "Waiver," which are based on equity. Petitioner's conduct of deliberate breach of rules, disentitled him to take shelter of the above rules of fair play, good-conscience, and equity.

29. One will notice that "appearance in examination" merit list and Admission were to "PROVISIONAL" as mentioned in Brochure "PROVISIONAL ADMIT CARD" (Writ Annexures 1 and 2). Petitioner deliberately concealed this fact in the writ petition.

30. Decision of the "Admission Committee"/contesting respondents to cancel application form of PMT/PAT-2000 vide order dated July 21, 2000 (Annexure-1) to the Short Counter Affidavit) cannot be said to be arbitrary or illegal.

31. Considering the case that it relates to the holding of an examination by an educational authority and that the petitioner having admitted that the said application form was not filled and submitted as per instruction, I do not find any error or illegality in the procedure adopted by the respondents.

32. It may be noted that para 18 of the Information Booklet itself contemplates that in case of any dispute, the decision of the admission committee shall be final subject to an appeal to the Vice Chancellor, Banaras Hindu University, Varanasi. Petitioner had an alternative remedy, but he did not prefer to avail the same and approached this Court under Article 226, Constitution of India.

33. In view of the above, the petition lacks merits. Petitioner is not entitled to the relief by invoking extraordinary discretionary/ equitable jurisdiction of this Court under Article 226, Constitution of India.

34. Writ Petition fails.

35. No order as to costs. Petition dismissed.