

(1982) 08 RAJ CK 0010
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1319/82

Radhe Shyam

APPELLANT

Vs

Board of Technical Education

RESPONDENT

Date of Decision : 30-08-1982

Acts Referred:

Citation : (1982) WLN 566

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

G.M. Lodha, J.—This writ petition has been filed by Radheshyam, a student of Polytechnic at Jodhpur. He is doing Part Time Diploma Course, took his admission in the Electrical Branch in the academic session 77-78. He appeared in his first semester examination in May/June 1978. He failed in the second semester examination latter on.

2. The petitioner applied for Civil Branch after passing second semester examination but as his marks were high, he was not allowed to change his Branch. He appeared for third semester of Electrical Branch in November 1979 but he failed. He then applied for change to Mechanical branch and he was permitted to change the branch.

3. After change in the Mechanical brrach, petitioner did not appear in third semester of the Mechanical branch in the year 1980-81 and also 1981-82.

4. The petitioner now has applied for change from Mechanical to Civil but that has been refused.

5. According to the Petitioner, this has been done on account of the letter of Director dated 8.11.1981 saying that students admitted in the academic session 1980-82 in the Ist year part-time Diploma Course were granted admissions as per their trades or according to their professions & it will not be proper to permit

them to change their trades.

6. Mr. Mridul has submitted that the change could not be refused on account of Rule 12.

7. Rule 12 as contained in the Board of Technical Education, Rajasthan, Jaipur syllabus for the session of 1977-78 and reads as under:

12. Candidate pursuing a course of study in an affiliated institution may be permitted transfer from one branch of engineering to another in accordance with rules framed by the Board for the purpose.

Rules have been framed. Sub-rule (7) says that the Principal of Polytechnic may refuse admission or transfer without assigning any reason.

8. Mr. Balia, Dy. Govt. Advocate, submitted that the petitioner is a part-time student and Rule 12 is not applicable to him. Even if it is applicable he got a change earlier as per admission of Mr. Mridul and, therefore, he cannot have any instance for second change more so as he has not appeared in second year, which is conjunctively and failed earlier.

9. Mr. Mridul on the contrary relied upon the judgment of this Court on Virendra Kapur v. University of Jodhpur 1964 RLW 328 in support of his contention that he is entitled to change.

10. Having considered the submissions of the learned Counsel for the parties, I am of the opinion that the petitioner cannot have any legal right to insist for change second time after his failing in the earlier examinations and not appearing twice.

11. In the educational field discretion is to be given to the authorities concerned and no mala-fides or violation of any statute has been proved.

12. Moreover, Sub-rule (7) of the administrative instructions gives absolute right to Principal to refuse admission or transfer.

13. I am also inclined to accept the contention of Mr. Balia that these rules are meant for students from regular courses & not part-time Diploma Course.

14. Even if it is assumed that rule 12 applies to the petitioner's case also though in terms it cannot, yet in this rule there are discretionary powers as words used are "may" and that being so discretion having been exercised bonafide cannot be challenged. If there are no rules to cover the case of the petitioner in particular, then the letter of the Director taking policy decision can provide proper guidance and there is nothing illegality in it.

15. Moreover, the petitioner has failed repeatedly and has not appeared in two successive years and he cannot expect any relief in equitable jurisdiction on account of this conduct.

16. The writ petition, therefore, fails and is hereby dismissed summarily.