(2013) 08 P&H CK 0570

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 21682 of 2012

Ramgarhia Polytechnic College — APPELLANT

Vs

The State of Punjab and Others — RESPONDENT

Date of Decision : 13-08-2013

Acts Referred:
Constitution of India, 1950 — Article 14

Citation : (2013) 4 PLR 675

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : Rahul Sharma in CWP No. 21682 of 2012 and CWP No. 15790 of 2013, Mr. Sameer Sachdeva in CWP No. 16210 of 2013 and CWP No. 16535 of 2013, for the Appellant; V. Ramswaroop, Addl. A.G. in CWP No. 21682 of 2012, CWP No. 15790 of 2013, CWP No. 16210 of 2013 and CWP No. 16535 of 2013, Mr. Tapan Yadav, Advocate for Respondent No. 4 in CWP No. 21682 of 2012, CWP No. 16210 of 2013 and for Respondent No. 5 in CWP No. 15790 of 2013, Mr. Vinod Sharma, Advocate for Respondent No.4. in CWP No. 16535 of 2013, for the Respondent

Judgement

Rakesh Kumar Jain, J.—This order shall dispose of four writ petitions namely, CWP No. 21682 of 2012 titled as "Ramgarhia Polytechnic College, PO Satnampura Vs. The State of Punjab and others", CWP No. 15790 of 2013 titled as "Doaba College Vs. The State of Punjab and others", CWP No. 16210 of 2013 titled as "BLM Girls College and others Vs. State of Punjab and others" and CWP No. 16535 of 2013 titled as "Khalsa Institute of management & Technology for Women, Ludhiana Vs. State of Punjab and others" as in all the cases letters dated 29.3.2012 and 26.4.2012 have been challenged. However, for the sake of convenience facts are being extracted form CWP No. 21682 of 2012. The skeletal facts of the case are that the Government of India introduced a scheme of Post Matric Scholarships to the students belonging to Scheduled Castes in order to provide them financial assistance. The eligible students, covered under the scheme are paid the enrollment/registration, tuition, and such other fees compulsorily payable by the students to the institute or the University. The scheme is implemented by the State Government and the UT Administration receiving 100% Central assistance from the Government of India for the total expenditure. Additional payment to the beneficiaries under the Scheme, as detailed by the Union of India in the Scheme is to be made as under: -

VIII. Payment

(i) Maintenance allowance is payable from 1st April or from the month of admission, whichever is later, to the month in which the examinations are completed at the end of the academic year (including maintenance allowance during holidays), provided that if the scholar secures admission after the 20th day of a month, the amount will be paid from the month following the month of admission.

(ii) In case of renewal of scholarships awarded in the previous years, maintenance allowance will be paid from the month following the month upto which scholarship was paid in the previous year, if the course of study is continuous.

(iii) The Government of the State/Union Territory Administration, to which they belong, in accordance with the procedure laid down by them in this regard, will pay the scholarship money to the selected students.

(iv) Scholarship will not be paid for the period of internship/housemanship in the MBBS course or for a practical training in other course if the student is in receipt of some remuneration during the internship period or some allowance/stipend during the practical training in other course.

2. The mode of disbursal of the scholarship is also provided, which reads as under: -

IX. MODE OF DISBURSAL OF SCHOLARSHIP

In order to ensure timely payment of scholarship amount to the beneficiaries, the State Government/UT administrations are requested to avoid cash payment of scholarship amount and are required to issue instructions to all concerned that payment of scholarship should be made to beneficiaries through their accounts in post offices/banks with phased transition to Smart Cards.

3. From the perusal of the aforesaid, it is apparent that: -

(a) The Scheme of Post Matric Scholarships to the Students Belonging to Schedule Castes is to be implemented by the State Government;

(b) The State Government has been given the liberty to pay the scholarship amount to the eligible students in accordance with the procedure laid down by the State Government in this regard;

(c) The State Governments have been advised to avoid cash payments and have been requested to ensure that the payment of scholarship is made to the beneficiaries through their Bank Accounts.

4. Accordingly, it was decided by the Government that the Colleges/institutions, under the Scheme, should not charge tuition fee and non-refundable compulsory fees from the eligible students and the said amount is to be recovered by the institutions from the Department concerned of the State. The Colleges/ institutions were also warned that they would have to face legal action as well as cancellation of their approval in case of violation of the directions stated above. Consequently, as per the procedure evolved by the State Government, the Colleges/institutions were forbidden from charging any tuition and non-refundable compulsory fees from the eligible students and were directed to seek reimbursement thereof from the Government.

5. According to the petitioner, the Government is still liable to pay to it, the following amount in the past three years: -

6. The fact of the payment due to the petitioner is not denied by the respondent/ State which has been admitted by the Directorate of Technical Education and Industrial Training, Punjab vide his letter dated 13.10.2011 and 27.1.2012.

7. On the one hand, the petitioner has been facing acute financial crunch on account of non-reimbursement of the amount by the State and on the other hand vide impugned letter dated 29.3.2012, the petitioner has been informed that according to the norms of the Scheme, no eligible candidate belong to the Scheduled Caste will be charged admission/tuition fee at the time of admission, the concerned student shall be paid online reimbursement of maintenance/ allowance/scholarship, admission fee and tuition fee and after that they have to pay admission and tuition fee/reimbursement to the concerned institute. Relying upon the letter dated 29.3.2012, the Directorate of Technical Education and Industrial Training, Punjab has also issued letter dated 26.4.2012.

8. Learned counsel for the petitioner has submitted that the petitioner has been placed in a precarious situation as firstly it is not allowed to charge any admission, tuition or non-refundable compulsory fee from the students and then the reimbursement of that amount is not made to the petitioner but to the students. As the reimbursement is not made on monthly or immediate basis many of the students undergoing their studies finish their course and leave the college, leaving the petitioner high and dry as it cannot recover the fee from the students to whom it is paid by the Government. An instance has also been quoted in the petition that there are 316 eligible students covered under the Scheme and a sum of Rs. 75,98,750/- is due to the petitioner/college out of whom 155 students have paid an amount of Rs. 38,15,350/- and 161 students have not paid an amount of Rs. 37,83,400/-, which is a very difficult task for the petitioner to recover. Thus, the action of the respondents has been challenged on the ground of arbitrariness and unreasonableness that raise suspicion for delay in reimbursement. The petitioner/college is not supposed to charge Rs. admission, tuition and other non-refundable fee from the eligible students on the direction of the Government, who is bound by law as well as by the principle of estoppel to immediately repay the amount to the College which is now to be paid an amount

of Rs. 1,29,86,915/-.

9. It is also argued by learned counsel for the petitioner that inter-departmental delay in receiving the amount by one department of the Government from another cannot be a ground to delay the payment as the petitioner/college is to defray expenses under various heads which is entirely based upon the tuition fee etc. It is also argued that decision of the State not to allow the petitioner to charge fees from the eligible students, to make the reimbursement to the students and not to the College is an impracticable and unworkable solution. It is stated that so long as the amount due on the various heads to be paid to the petitioner is reimbursed in time by the State Government in terms of the policy, it would not charge relevant fees from the eligible students but if the petitioner agrees to the impugned letters dated 29.3.2012 and 26.4.2012, it would be in a quandary as the amount is being directly deposited in the accounts of the eligible students, who may or may not pay the same to the College as the college cannot recover the same from them. It is thus, submitted that the impugned letters are patently illegal, arbitrary, unreasonable and unworkable and would be liable to be quashed; and a direction may be given to the State Government to reimburse the amount due to the petitioner, as early as possible so that the petitioner is able to meet its day-to-day expenses.

10. Respondents No. 1 and 2 have filed their reply in which they have averred that the claim of the petitioner for the years 2009-2010, 2010-2011 and 2011-2012 is pending for sanctioning of grant by the Department of Welfare of Schedule Castes and Backward Classes, Punjab. Prior to the letter No. 6510 dated 29.3.2012, the grant was received by the respondent/Department and was disbursed to the institutes and now as per decision dated 29.3.2012 of the Department of Welfare of Schedule Castes and Backward Classes, Punjab, the amount is directly to be credited to the account of the students by the Department of Welfare of Schedule Castes and Backward Classes, Punjab and the students are then to deposit the same with the institute and as such the role of the Department is to verify and forward the claim of the institutes as the grant is to be given and to be deposited in the accounts of the students by the Department of Welfare of Schedule Castes and Backward Classes, Punjab.

11. I have heard learned counsel for the parties and on perusal of the record, I am of the considered opinion that the grievance of the petitioner is well founded because while imparting education to the students much less the eligible students, the petitioner has to incur expenditure in various forms and since eligible students are taking education in the petitioner/college, without paying the relevant fee, which is to be paid by the Central Government under the Scheme, the petitioner is entitled the reimbursement of the said expenditure, expeditiously, if not promptly. Moreover, the impugned letters issued by the Department of Welfare of Schedule Castes and Backward Classes, Punjab, have also been found to be totally unreasonable, impractical and unworkable because it has not been thought of by the concerned Department that with the deposit of

the amount of fees etc. in the accounts of the eligible students by way of online management, it would be difficult for the petitioner to recover the fee from those students as there is no mechanism for recovery of the amount from them by the institute/college. It is no where specified that in case of non-payment of the relevant dues by the eligible students, which department of the Government would reimburse the said amount to the petitioner, who, in any case, is entitled to reimbursement in terms of the policy. It is also not thought of by the Department of Welfare of Schedule Castes and Backward Classes, Punjab that if the students leave the institute/college after or before the completion of the course, there is no procedure for recovery of the amount which is directly deposited in their accounts. Thus, in my considered opinion, the impugned letters dated 29.3.2012 and 26.4.2012 by which it has been decided by the Department of Welfare of Schedule Castes and Backward Classes, Punjab to deposit the fee etc. in the accounts of the eligible students directly is very impracticable, unworkable and unreasonable method and breeds an element of arbitrariness which is offending to Article 14 of the Constitution of India and accordingly, it is liable to be stuck down. Moreover, once the amount of tuition fee etc. is due to the college, funded by the Central Government and to be released by the concerned department of the State Government, the inter-departmental delay is no ground to postpone the payment to the petitioner/college. In view of the aforesaid discussion, all the writ petitions are hereby allowed; impugned letters dated 29.3.2012 and 26.4.2012 are hereby quashed and it is directed that henceforth the amount of fee etc. which is paid by the Central Government to the State Government on account of the fees of the eligible students under the Scheme, shall be paid directly to the College and not to be deposited in the accounts of the eligible students. It is directed that the dues of the petitioner/college or other similar colleges which are still pending with the respondents on account of reimbursement, relevant fee etc., which has been collected or yet to be collected by the State Government from the Central Government, shall be disbursed to the petitioner and similar colleges in the State of Punjab within a period of three months from the date of receipt of certified copy of this order.