

(2004) 12 AHC CK 0163

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 42901 of 2004

Ravindra Pratap

APPELLANT

Vs

Institute of Engineering and Rural Technology and Others

RESPONDENT

Date of Decision : 02-12-2004

Acts Referred:

Citation : (2005) 5 AWC 3978 : (2005) 1 UPLBEC 748

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Kshitij Shailendre, for the Appellant; Rahul Sripat and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Heard Sri Kshitij Shailendra Advocate on behalf of the petitioner, Sri Rahul Sripat Advocate on behalf of respondents 1 and 2, and the Standing Counsel on behalf of respondent No. 3-State.

2. The petitioner, Ravindra Pratap was admitted to 3 years Degree Course of Diploma in Electronic Engineering under Multi-Point Entry and Credit System (hereinafter referred to as MPECS) in the Institute of Engineering and Rural Technology, Allahabad (hereinafter referred to as the IERT) for the academic session 1998-99. The petitioner failed to clear examination of the subject of Analog in Electronics 3rd semester and has also failed in two papers in 4th semester examination. The petitioner is aggrieved by the order passed by the Director of the IERT dated 10.8.2004 whereby the Director with reference to Rule 15-B of the Multi-Point Entry and Credit System Examination Rules (hereinafter referred to as the Rules) adopted by the IERT since 1993, provided that no further chance/attempt can be given to the petitioner for clearing the back paper of 3rd semester. This order is under challenge in the present writ petition.

3. On behalf of the petitioner it is contended that the aforesaid order passed by the Director is manifestly illegal inasmuch as under the provisions of Rule 16 of

the Rules read with the purpose for which the Multi-Purpose Entry and Credit System was introduced, the petitioner is entitled to be permitted to undertake the back papers in respect of the examinations which the petitioner could not clear, pertaining to 3rd semester and that Rule 15-B of the Rules is to be read down in the light of the provisions providing for back papers. Reliance has been placed in that regard upon the judgment of this Court reported in *Abhishek Rathore Vs. Director, Institute of Engineering and Rural Technology, Allahabad*, .

4. On behalf of the respondents it is submitted that the petitioner was admitted in the year 1998. The period of six years subsequent to his admission in the said course has expired in the year 2004 and therefore, under Rule 15-B of the Rules he is not entitled to any further opportunity of appearing in back papers or to continue as student in the said course.

5. In order to appreciate the controversy raised between the parties it would be appropriate to refer to Rule 15-B of the Rules which is quoted hereunder :--

"To complete a particular diploma programmed the maximum duration shall be double the number of academic years prescribed."

6. From the aforesaid Rule it is apparently clear that the entire diploma programmed is required to be completed by the petitioner within the maximum duration which shall be double the number of academic years prescribed. It is not in dispute that the number of academic years prescribed for the course of Diploma in Electronic Engineering in 3 years and, therefore, the maximum duration under Rule 15-B works out to 6 years only in respect of the said diploma course. The petitioner as such cannot be permitted to complete the said diploma programmed after expiry of the said 6 years from the year of this admission. The petitioner also admits the aforesaid legal position, however, he contends that the said Rule 15-B be read down in the light of the provisions of Rule 16 as well as in light of the purpose for which the aforesaid Multi-Point Entry and Credit System was introduced.

7. In the opinion of the Court the language of Rule 15-B is clear and specific. It leaves no room for doubt. In no case a candidate can be permitted to continue beyond the maximum duration provided for under Rule 15-B. In such circumstances it is not necessary to refer to any other provision including Rule 16 or the purpose for which the Multi-Point Entry and Credit System has been introduced inasmuch as any opportunity to a candidate to appear in a back paper must be completed within the maximum duration provided under Rule 15-B. Rule 16 or the purpose for which the Multi-Point Entry and Credit System has been introduced cannot in any way extend the maximum duration provided under Rule 15-B. So far as the case *Abhishek Rathor v. Director Institute of Engineering and Rural Technology, Allahabad* (*supra*) relied upon by the petitioner is concerned it has no application to the facts of the present case inasmuch as in the said judgment the applicability of Rule 15-B was not under consideration.

8. The writ petition is accordingly dismissed.