

(2003) 09 UK CK 0020

In the Uttarakhand High Court

Case No : Writ Petition No. 770 of 2003 (MS)

Sanjeev Rawat

APPELLANT

Vs

Principal Government Post Graduate College, Uttarkashi and
another

RESPONDENT

Date of Decision : 18-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 1 UC 631

Hon'ble Judges : Rajesh Tandon, J

Bench : Single Bench

Judgement

Rajesh Tandon, J.—By the present writ petition the Petitioner has sought a writ of mandamus commanding the Respondent No. 1 to grant admission to the Petitioner as regular student in M.A. Hindi course in the current academic session pursuant to his application submitted on 11.8.2003.

2. Brief facts giving rise to the writ petition are that the Petitioner has qualified his B. Sc. degree from Respondent No. 1 college and took admission in Diploma Course of Medical Transcription in Shiv Om Institute of Medical Transcription, Dehradun and thereafter took admission in M. Sc. Botany in Govt. P.O. College, Uttarkashi in the academic session 2002-2003 and appeared in the examination in April-May, 2003 and due to poor performance the Petitioner was declared failed. The Government P.G. College, Uttarkashi is affiliated to Hemwati Nandan Bahuguna, Garhwal University Srinagar for the conducting examination. The University has been constituted under the provisions of State Universities Act, 1973.

3. The Petitioner has appeared in the M. Sc. Botany and after having failed, the Petitioner is desirous of getting admission in M.A. Hindi.

4. The grievance of the Petitioner in paragraph 10 of his writ petition is that application submitted by the Petitioner for admission in M.A. Hindi has not been

considered at all, hence the present writ petition has been filed for seeking writ of mandamus under Article 226 of the Constitution of India.

5. In paragraph 12 of the counter affidavit filed on behalf of Respondent No. 1 Govt. P.G. College, Uttarkashi it has been stated to the following effect:

That in reply to contents of paragraphs Nos. 15 and 16 of the writ petition it is submitted that the Petitioner, owing to the reason stated above is not entitled to get admission in M.A. Hindi as a regular student. Moreover, the Petitioner has filled up the form to appear in back paper examination in M. Sc. Botany in the subject in which he was declared failed.

6. The Petitioner's Counsel has argued that although the Petitioner preferred reexamination in M. Sc. Botany but it is not possible for him to continue study in M. Sc. Botany due to poor academic performance of his own. The Learned Counsel for the Petitioner has stated that Petitioner may be treated as having passed B. Sc. Examination. It is a fact that in a academic year two courses cannot be prosecuted by the Petitioner and, therefore, the Petitioner has made a statement that in case he is given admission in M.A. Hindi course, he will give undertaking that he will not prosecute his further study in M. Sc. Botany.

7. Respondent No. 1 has filed admission Rules along with his counter affidavit. Rules 13 and 17 of the same are quoted below:

8. As will appear from Rules 13 and 17 that students will not be allowed to change the subject. According to the Petitioner's Counsel it is not a case of change of subject but it is a case where after passing B. Sc. examination, the Petitioner is not intending to continue his study in M. Sc. degree and intended to take admission in M.A. Hindi. According to the case of the Petitioner he is not changing the subject, as he has not taken admission in M.A. earlier and for the first time he is seeking admission in M.A. Hindi, therefore, the Petitioner may be treated as having passed only B. Sc. degree. Coming to the grievances of the Petitioner suffice it to say that there is nothing on the record to show that the Petitioner has ever approached the Principal, Government P.G. College, Uttarkashi or any competent authority of the college and the college has refused the admission to the Petitioner. The writ petition is, therefore, premature.

9. The Petitioner is now seeking admission in M.A. Hindi and therefore, according to the Petitioner, Rules 13 and 17 of the prospectus have no application in the present case. Without expressing an opinion it will be open for the Petitioner to demonstrate before the Respondents that it will not amount to change of subject as he is simply seeking admission in M.A. Hindi after graduation from science subject.

10. However, the Petitioner will be at liberty to approach the college authorities and college authorities shall consider the case of the Petitioner for admission in M.A. Hindi according to the Rules and Regulations of the University. However, if the college authorities are willing to give admission to the Petitioner in M.A.

Hindi, it will not be treated as a precedent for other students.

With the aforesaid observations, the writ petition is disposed of. No order as to the costs.