
(2013) 07 P&H CK 0594
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 4616 of 2010

Satish Kumar Garg

APPELLANT

Vs

National Institute of Technology and another

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : (2013) 07 P&H CK 0594

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : Anurag Goyal, for the Appellant; Pankaj Bali, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J.—This petition is directed against the order dated 14.10.2009 (Annexure P-9) by which the Ph. D registration of the petitioner in the Physics Department has been cancelled by respondent No. 1. In short, the case of the petitioner is that the petitioner was recommended by Board of Studies for registration of Ph. D (Part-Time) under the Proposed Area of Research i.e. "Polymer Electrets" under two Supervisors i.e. Dr. J.K. Quamara and Dr. M.L. Matta by the Chairman of the Department of Research Committee. The petitioner was finally registered for Ph. D on 30.5.2005 under Registration No. 2K05-NITK-Ph. D/1046. While the petitioner was preparing his thesis, one of the Supervisors, namely Dr. M.L. Matta showed his inability to continue as Supervisor because of his retirement. He requested the Chairman of the Board of Studies to allow him to withdraw. The prayer made by Dr. Matta was allowed on the same day and the petitioner was left with only one Supervisor, namely Dr. J.K. Quamara.

2. Learned counsel for the petitioner submitted that since Dr. J.K. Quamara was humiliating him using insulting language and telling him that else-where in Meerut, a student has spent huge amount of Rs. 2 lacs for obtaining Ph. D Degree the petitioner requested respondent No. 1 to change the supervisor.

However, Dr. J.K. Quamara himself withdrew his name by writing a letter to the Director on 11.4.2009. After withdrawal of Dr. Quamara, the petitioner again gave representations on 21.4.2009, 29.4.2009 and 30.6.2009 requesting that his thesis is almost ready but without Supervisor, it cannot be submitted and requested that his Supervisor may be changed. To the utter surprise of the petitioner, he received an order dated 14.10.2009, whereby he was informed that his Ph.D. Registration has been cancelled. Hence, the present writ petition.

3. Among other things, the petitioner has challenged the impugned order on the ground of being violative of principles of natural justice alleging that the impugned order has been passed without any show cause notice and without any opportunity of hearing offered to him in violation of the principles of "Audi Alteram Partem". He has further referred to the provisions of Ph.D. Ordinance to contend that before passing the extreme order of cancellation of the registration, the petitioner should have been warned, had he been remiss in his act and conduct. In this regard, learned counsel has referred to Rule 10.4 of the Ordinance which reads as under:-

If the progress is "unsatisfactory" a warning would be issued to the candidate. Subsequently, the fellowship (in case of regular scholar) of the candidate would be withheld, if approved so by BOS, Director. The candidate may be given two chances to improve upon the progress.

4. On the other hand, learned counsel for the respondents has submitted that conduct of the petitioner was such that respondent No. 1 was constrained to pass the impugned order of cancellation of registration. The alleged conduct of the petitioner has been highlighted in the reply filed at the instance of respondent No. 1. He has submitted that nothing has been told to the petitioner at any point of time, otherwise, he could have tendered his explanation about his alleged misconduct. He also submitted that before taking the extreme step of cancellation of registration of the petitioner, when his thesis is almost complete, the respondents should have resorted to Rule 10.4, referred to above so that he could have improved his conduct if it has been found to be unsatisfactory.

5. After hearing learned counsel for the parties, I am of the considered view that not only the impugned order is violative of the principles of natural justice as no opportunity of hearing has been granted to the petitioner but also there is violation of Rule 10.4, referred to above. Respondent No. 1 should have resorted to Rule 10.4. at the first instance before taking the extreme step of cancellation of registration of Ph.D of the petitioner.

6. In view of the above, the present petition is allowed and the impugned order (Annexure P-9) is quashed. At this stage, learned counsel for the petitioner has informed the Court that Dr. S.P. Gupta, Head of the Department of Physics, Kurukshetra University has given his consent to act as petitioner's supervisor for the purpose of submission of his thesis. The respondents, if so advised, may consider this prayer of the petitioner if ultimately it is not to proceed against the

petitioner for cancellation of his Ph. D registration.