
(2019) 02 DEL CK 0389

In the Delhi High Court

Case No : Civil Writ Petition No. 7966 Of 2017

Self Financing Educational Institutions Association

APPELLANT

Vs

Ggsip University And Anr

RESPONDENT

Date of Decision : 27-02-2019

Acts Referred:

Citation : (2019) 02 DEL CK 0389

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : Rajiv Bansal, Sameer Rohatgi, Namit Suri, Kunal Kumar, Akshit Pradhan, Shibani, Vaishali Rawat, Parul, Anita Sahani

Final Decision : Disposed Off

Judgement

1. This writ petition, which has been filed by the Self Financing Educational Institutions Association, essentially seeks to submit that the members of the petitioner-association were, by virtue of a judgment rendered by a learned Single Judge of this Court on 31st August, 2017 in W.P.(C) 2217/2016, entitled to recover arrears of fee for the academic session 2014-15, 2015-16 and 2016-17, but that, as degrees were being awarded by the Respondent No.1 - University (hereinafter referred to as the "University") to the students who had become liable to pay the enhanced fee, even without payment thereof, recovery of the said fees had become impossible. For this reason, the writ petition sought issuance of a writ of mandamus to the University, to issue a circular/notice, for the students who had pursued their studies with the college during the aforesaid academic session 2015-16 and 2016-17, to the effect that their degrees would be released to them only after the arrears were paid to the concerned colleges (members of the petitioner-Association).

2. The aforesaid judgment, dated 31st August, 2017, of the learned Single Judge, was carried in appeal, by way of LPA 733/2017 and other connected cases. These LPAs stand decided by the Division Bench of this Court vide judgment dated 28th January, 2019, whereby it has been held that the institutes

who are members of the petitioner-Association would be within their right to claim the fee structure as recommended for a particular course for the year 2015-2016 only.

3. In view thereof, the petitioner's submission is that, unless and until the students liquidate the arrears of fee payable to the members of the petitioner-association for the academic year 2015-2016, the University should be proscribed from releasing degrees to the students.

4. I may note that, with the aforesaid judgment of the Division Bench, this issue actually does not require adjudication, in view of Clause 14 of Ordinance 10 and Ordinance 11 governing the University. The said clause, which is identical in both the Ordinances, reads as under:

"14. Award of Degree

A student shall be awarded a degree if:

(i) He/she has registered himself/herself, undergone the course of studies, completed the project report/training report specified in the curriculum of his/her programme within the stipulated time, and secured the minimum credits prescribed for award of the concerned degree.

(ii) There are no dues outstanding in his/her name to a School of the University/Affiliated Institution; and

(iii) No disciplinary action is pending against him/her.

(iv) He/She has acquired the CGPA higher than or equal to the minimum CGPA specified in the Syllabi and Scheme of Teacher and Examination for the award of the degree."

5. As has been correctly pointed out by Ms. Anita Sahani, learned counsel appearing for the University, sub-clause (ii) of the afore extracted Clause 14 clarifies that a student would be awarded a degree only if no dues were outstanding against her/his name, to the school, or the University/Affiliated Institute. I may clarify, here, that the reference to the school or University, and the affiliated institution, is because certain courses are conducted by the University itself and certain courses are conducted by the affiliated colleges. The demand in this case pertains to the courses conducted by the affiliated colleges. To revert to clause 14, sub-clause (ii) thereof would, proprio vigore, mandate liquidation, by any student, of the dues outstanding towards the institution, in which the student had pursued her/his studies for the academic years 2015-2016, before the degree could be awarded to her/him. The apprehension, of the petitioner, to the effect that degrees would be awarded to the students without their having paid, in the first instance, the arrears of fees payable to its member institutes, for the academic year 2015-2016, pursuant to the judgment dated 28th January, 2019 (supra) in LPA 733/2017 appears, therefore, to be unfounded.

6. Be that as it may, pursuant to the aforementioned judgment dated 28th January, 2019, the University issued a notice, dated 6th February, 2019, purportedly to allay the apprehension of the members of the petitioner association. The said notice reads as under:

"GURU GOBIND SINGH INDRAPRASTHA

UNIVERSITY

SECTOR 16-C, DWARKA, NEW DELHI-110078

GGSIU/EXAM/COE/2019/10412-L

Dated: February 6, 2019

NOTICE

This is for the information of all the students (passed out/presently enrolled) that the Examination Division will consider the request of the students only if the application/request is recommended/forwarded by the Dean, University School of Studies/Director of the Affiliated Institutes of the University in respect of the following examination activities:-

1. Request for issuance of Transcript.
2. Request for issuance of Provisional Certificate and Consolidated Marksheet after dropping the papers/apply for grace marks as per University norms.
3. Request for issuance of Degree/Duplicate Degree/Correction in Degree.
4. Request for issuance of Duplicate Provisional Certificate/Consolidated Marksheet/ Semester Marksheels/Correction in Provisional Certificate/ Consolidated Marksheet/ Semester Marksheels.

Sd/-

Pravin Chandra

Controller of Examinations (Operations)"

7. Mr. Bansal, learned counsel for the petitioner, voices yet another apprehension, to the effect that, as the notice permits the recommendation forwarding of the request of the students, for release of degrees, by the Dean, University School of Studies/Director of the Affiliated Institute or University, it would be possible for the students to obtain the recommendation from either of the said authorities. As such, he apprehends that, even in the case of students who are pursuing their courses with the affiliated institutes, if the Director of the affiliated institute concerned is not willing to issue the recommendation or forward the application of the students for release of degree, the student may, nevertheless, approach the Dean of the University School of Studies, obtain a recommendation to the said effect, and walk away with the degree.

8. I am of the opinion that as the University School of Studies and the affiliated institutes are distinct entities, this apprehension is misconceived. Even otherwise, Ms. Sahani clarifies that, where the students are pursuing their courses with the affiliated institutes, rather than with the University School of Studies, the requisite recommendation/forwarding of the application has necessarily to be made by the Director of the affiliated institutes alone. This, she points out, would also be the import of sub-clause (ii) of Clause 14 of Ordinance 10 and 11 governing the University, which already stands extracted hereinabove.

9. As such, Ms. Sahani clarifies that, where the students are pursuing their courses with the affiliated institutes, their application for release of degree would have to be recommended/forwarded by the Director of the affiliate institutes, and it is only in such cases that the degree would be released to them.

10. In view thereof, the apprehension of the petitioner, on the basis of which this writ petition was preferred in the first instance, stands mitigated. Nothing survives for adjudication in the writ petition, which stands disposed of as such with no order as to costs.