
(2025) 12 J&K CK 1709
In the Jammu And Kashmir High Court
Case No : LPA No.186 Of 2024

Sher-e-Kashmir University of Agricultural Sciences and
Technology of Jammu

APPELLANT

Vs

Vishav Pratap Singh

RESPONDENT

Date of Decision : 18-12-2025

Acts Referred:

Citation : (2025) 12 J&K CK 1709

Hon'ble Judges : Arun Palli, CJ;Rajnesh Oswal, J

Bench : Division Bench

Advocate : Anil Khajuria, Rahil Raja

Final Decision : Dismissed

Judgement

Rajnesh Oswal, J

1. The appellants-writ respondents had issued Advertisement Notification for admission to under-graduate and post-graduate programmes for different courses, including B.V.Sc. and AH Course. The total numbers of seats under open merit category were 17. The respondent-writ petitioner pursuant to said Notification applied for B.V.Sc. and AH Course and participated in the selection process. He figured at S.No.40 of the merit list. After the counseling, the respondent-writ petitioner figured at S.No.10 in the waiting list of open merit category. The respondent-writ petitioner, however, sought admission for the above-mentioned category under self-financing seat for which the course fee was of ₹ 1,76,900 per year, whereas normal fee for the course was ₹ 26,900/-.
2. The respondent-writ petitioner claims that the appellants assured him that if he achieved the requisite merit under the Open Merit Category, he would be upgraded from the Self-Financing to the Open Merit Category.
3. On 23.08.2017, one candidate, namely Mrs. Kanu Priya, who was admitted in open merit category, cancelled her admission resulting into vacancy of one seat under the open merit category. All the candidates figuring upto serial number 08

in the waiting list of the open merit category had already secured admission. The next candidate, Ashiq Hussain, who was listed at Serial No. 09 in the waiting list under the Open Merit Category, was offered provisional admission. As the appellants were obliged by the norms to provide a 24-hour window to seek admission, but with the expiry of the time granted to Ashiq Hussain, the admission process also got closed.

4. On 01.09.2017, following the closure of the admission process, the respondent-writ petitioner requested the appellants for the upgradation of his seat from Self-Financing to Open Merit. This request was based on the seat having become vacant due to the non-joining of Ashiq Hussain, but the appellants rejected the request/claim of the respondent-writ petitioner along with others, in terms of Circular dated 14.11.2017.

5. Aggrieved thereof, the respondent-writ petitioner assailed the said Circular dated 14.11.2017 through the medium of writ petition bearing OWP No. 1071/2018 whereby he sought quashing of Circular dated 14.11.2017; and for commanding the appellants to treat the respondent-writ petitioner as open merit candidate instead of candidate falling under self-financing scheme with respect to B.V.Sc & A.H course; and for refund of differential excess amount of fee after upgradation of the respondent-writ petitioner to open merit seat from self-financing seat.

6. The respondent-writ petitioner argued that the appellants' decision not to upgrade him from the Self-Financing to the Open Merit seat constituted arbitrary action. The basis of this claim was that an Open Merit seat remained vacant due to Ashiq Hussain's non-joining, and since the petitioner was the next eligible candidate in the merit list. It was also asserted that the action of the appellants-writ respondents had resulted in financial loss to the respondent-writ petitioner, as the fee under open merit category was ₹ 26,900/- per annum whereas fee under self-financing was ₹ 1,76,900/- per annum.

7. The claim of the respondent-writ petitioner met serious objection from the appellants on the ground that the respondent-writ petitioner on 01.09.2017, after the closure of the admission process, i.e. on 24.08.2017, requested the appellants for up-gradation of his Self-Financing seat to Open Merit seat which fell vacant due to non-joining of one Ashiq Hussain, who was figuring at S.No.09 in the waiting list, but his request was turned down by the appellants as no admission/up-gradation could have been made after the closure of the admission process. It was admitted that on 23.08.2017 one candidate, namely, Kanu Priya admitted under open merit category, cancelled her admission resulting into one vacancy which was offered to one Ashiq Hussain figuring at S.No.9 from the waiting list, but he did not join the course till the closure of the admission process and once the admission process was closed, no up-gradation could have been made.

8. The learned Writ Court, vide its order dated 18.04.2024, allowed the writ

petition by quashing the Circular dated 14.11.2017, and held the respondent-writ petitioner entitled to up-gradation from the Self-Financing seat to Open Merit seat in the B.V.Sc. & A.H. course. The appellants were further directed to reimburse the excess fee paid by the respondent-writ petitioner.

9. Aggrieved by the judgment of the learned Writ Court dated 18.04.2024, the appellants have preferred this intra-court appeal. They seek to set aside the said judgment on the grounds previously urged in opposition to the claim of the writ petitioner.

10. Mr. Anil Khajuria, learned counsel for the appellants, submitted that the seat was vacated only on 23.08.2017, and 24.08.2017 was the last date for admission. As per the brochure, the vacant seat was required to be allotted to the next candidate in order of merit, which, accordingly, was offered to Mr. Ashiq Hussain, but he did not join the course, as a result thereof, the seat remained unoccupied. By that time, the final admission process had already concluded. He further submitted that the appellants did not commit any illegality because the closure of the admission process pre-empted any possibility of upgrading the respondent-writ petitioner. He asserts that, had sufficient time been available, they would have upgraded the respondent-writ petitioner from the Self-Financing seat to the Open Merit seat.

11. Mr. Rahil Raja, learned counsel for the respondents drew the attention of this Court towards the brochure to submit that the appellants were required to call all the candidates for vacant seat, but they did not do so, as such the circular issued by the appellants was bad in law.

12. Heard learned counsel appearing for the parties and perused the record meticulously.

13. There is no dispute between the parties with regard to the following facts:

(a) Mrs. Kanu Priya, who had been admitted under the Open Merit Category, cancelled her admission on 23.08.2017, thereby creating one vacant seat.

(b) Mr. Ashiq Hussain, a candidate figuring at Serial No. 9 in the waiting list under the Open Merit category, was offered provisional admission, but failed to join the course.

(c) On 24.08.2017, the admission process formally concluded.

14. Learned counsel for the appellants has rightly submitted that, in terms of the procedure prescribed for counseling for allotment of disciplines, when a candidate fails to join the course within the stipulated time period, his/her admission shall be cancelled and seat so vacated shall be allotted to the next candidate in merit (See-clause (ix), Para 'O' of the Information Brochure SKUAST-J CET-2017), but at the same time clause (x) of Para 'O' provides that in case some seats remain vacant even after the last round of counseling, the University shall call all the candidates, who have appeared in the SKUAST-J CET for walk-in

counseling and the selection shall be made on the merit of SKUAST-J CET among the candidates appearing in the walk-in counseling.

15. The appellants proceeded on the assumption that the candidate listed at Serial No. 09 would join the course within the stipulated 24-hour period. However, the said candidate failed to do so, as a result whereof the seat remained vacant. Unfortunately, the closure of the admission process coincided with the time granted to the said candidate for joining the course.

16. As a matter of prudence, once the vacancy arose and the admission window was nearing closure, the appellants ought to have called all the candidates figuring in the waiting list. Admission should then have been granted to the eligible candidate higher in merit, but present during counselling. This course of action was admittedly not adopted by the appellants. While such conduct may not strictly amount to illegality, it certainly constitutes procedural impropriety.

17. We have examined the impugned judgment passed by the learned writ Court, and we do not find any illegality, infirmity, or impropriety therein, leaving no scope for interference by this Court except to the extent that the action of the appellants was not illegal but procedurally improper.

18. In view of the foregoing discussion, the appeal is found to be devoid of merit and is, accordingly, dismissed, along with the connected CM(s), if any.