
(2004) 09 RAJ CK 0064

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3486 of 2004

St. Wilfred's Education Society

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-09-2004

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 149, 332, 353, 451

Citation : (2005) 1 RLW 462 : (2005) 1 WLC 422

Hon'ble Judges : K.S. Rathore, J

Bench : Single Bench

Advocate : Mahendra Shah, for the Appellant; Bharat Vyas, AAG and RA Katta, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Rathore, J.—Brief facts of the case are that the petitioner is a registered society under the Registration Act. 1958. The petitioner Society is running three education institutions which include one secondary school affiliated with CBSE and one College which is affiliated with University of Rajasthan.

2. The petitioner Society applied for N.O.C. for 300 students in LLB 1st year course to Director. College Education, Jaipur to grant permission for opening new Law College.

3. On the application moved on behalf of the petitioner, inspection was conducted by the inspection team and vide letter dated 7.8.2003, NOC was issued on certain conditions. The petitioner society deposited Rs. 50,000/- to the University as per the requirement for fresh affiliation for Law College through banker's cheque No. 317498 dated 20.12.2002.

4. Vide order No. 17233 dated 25.9.2003, the petitioner society was allotted 120 seats and provisional affiliation was accorded to the petitioner institution which was later on increased upto 160 seats.

5. An application for raising intake capacity from 160 to 200 was moved by the petitioner institution and when the application was under process, the petitioner society under the impression that the University will accord permission, given admission to 40 students excess then the quota allotted to the petitioner institution and the controversy arose from this point of time that the petitioner institution without obtaining valid recognition has given admission to 40 students in excess.

6. This present petition preferred by the petitioner against the order dated 24.5.2004 by which the petitioner institution was directed to submit original papers prior to issuance of permission letter to 200 students and it is submitted that the rider imposed vide order dated 24.5.2004 is unwarranted and that the petitioner institution time and again made requests to the university for the inspection and ultimately a team was constituted but till date inspection has not been conducted by the University but accepted the fee and forms for excess 40 students also.

7. This court on 28.5.2004 issued notice to the respondents and on 1.6.2004 the respondents were directed to allow the excess 40 students to appear in the LLB examination provisionally and these students appeared in the examination but their result was kept under sealed cover as was ordered by this court vide order dated 1.6.2004.

8. Learned counsel for the petitioner referred the documents annexed with the writ petition and after referring the documents he tried to make out the case the the petitioner has repeatedly requesting the respondent University to conduc the inspection and grant sanction of 200 students as the petitioner institution fulfill all requisite requirements which are essentially required for the purpose of recognition.

9. At the very outset, learned counsel for the petitioner submits that the petitioner institution has given admission to 40 students in excess then the quota allotted in favour of the petitioner institution, then at the most the respondents can impose penalty and take appropriate action under the provision of law but looking to the future of the 40 students the institution is ready to give admission to them in the second year without rasing the quota which is fixed i.e. 160 students. As such, in the interest of justice, the result may be declared so that they may avail opportunity to appear in the supplementary examination and to pursue their study in the second year LLB.

10. Per contra, learned counsel for the respondent Mr. RA Katta has vehemently opposed the submission made on behalf of the petitioner and that the petitioner institution has committed wrong and without obtaining prior sanction has given admission in excess then the quota allotted to the petitioner institution and such students who are admitted wrongly cannot be given admission.

11. Mr. Katta further submits that provisional affiliation to as many as, 10 institution was given, out of which; six institutions for conducting LLB course and

in all the six LLB colleges 120 intake capacity was sanctioned which was uniformly raised to 160 students and beyond 160 students they are not considering any case.

12. It is also given out by the learned counsel for the respondent Mr. Katta that vide letter dated 19.3.2004 it was directed that it is not possible to replace another inspection team and also refused to raise the intake capacity. It is also given out by the learned counsel for the respondents that even after refusal they have admitted few students which is per se deliberate action on the part of the petitioner. It is further submitted that the petitioner institution has utterly failed to submit original document to verify the admission given by the petitioner institution.

13. Mr. Katta further submits that that they have approved intake capacity of 160 students and the excess fee which has been received from 40 students, the process of refunding the same is under progress.

14. He also referred a letter dated 1.6.04 written by the Vice Chancellor wherein the Vice Chancellor having come to know about the incident happened in the University where 60-70 students of the petitioner institution associated with the Secretary of the institution and collected outside the office of the Vice Chancellor manhandled with the employees of the university, abused them and to some extent beaten them and the Vice Chancellor considering this fact has given permission to lodge the FIR upon which FIR has been lodged u/s 147, 149, 451, 332, 353 IPC, It is also given out by the learned counsel for the respondent that after investigation charge sheet has been filed before the ACJM No. 2 Jaipur City and Mr. Katta submits that if such institutions and students are allowed to continue they will lower down the image and standard of the teaching profession.

15. Having heard rival submissions of the respective parties and upon perusal of the material available on the record as well as the judgments referred before me by the respective parties and upon perusal of the sequence of the facts it reveals that the petitioner institution has given provisional permission to start LLB course and intake capacity was allotted to the petitioner institution which was admittedly raised to 160 students. Since the petitioner institution moved application for raising intake capacity upto the level of 200 and after moving this application in anticipation that the University will accord permission admitted 40 students in excess. As discussed herein above and as is evident that vide Annexure R-2, the University has refused to give permission for raising intake capacity and it is of course true that till date the University has not granted any permission for the 40 students whom the petitioner institution has given admission. Admittedly, the admission which is given by the institution is contrary to the provisions of law and without any authority and sanction.

16. Normally, this court is lenient so far as the students' career is concerned but looking to the peculiar facts and circumstances of the case as in this case the students not only showed manpower, abused and manhandled with the officials

and employees of the University but also with the Secretary of the University as evident by the complaint made on behalf of the Chairman of the employees union and the Vice Chancellor F.I.R. was lodged and after investigation charge sheet has been filed and therefore, such students and institution does not deserve any concession for wrong committed by them, even in case they are permitted to appear provisionally for examination by this court.

17. In view of this fact, I deem it proper to direct the University to first ensure that any application made by any college to set up new college for the LLB course the practice to accord provisional affiliation should be avoided in the interest of students at large and in case any institution or college fulfil all requisite requirement and after ensuring this fact the permanent affiliation recognition should only be granted so that the student may not suffer. And in case provisional recognition has been given then it should be notified to all students concerned admission is given provisionally subject to approval by University and the Bar Council of India.

18. In the facts and circumstances of the case as discussed herein above, it is a fit case where the university should deal with heavy hands and not to show any leniency to such institution which have given admission in excess to the quota allotted.

19. Accordingly, for the students who were given provisional admission, the respondent University is directed not to declare the result and the institution as well the students are not eligible to get any relief from this court as their admission itself was wrongly given by the petitioner institution and it is therefore directed that the University should take appropriate steps against such institution, it is also directed that the University should take appropriate steps against the petitioner institution to prevent the irregularities in future in the interest of public at large and in the interest of students.

20. Consequently, the writ petition fails and is hereby dismissed with no orders as to cost.