

(2015) 01 AHC CK 0004

In the Allahabad High Court

Case No : Special Appeal Defective No. 1040 of 2014

State of U.P. and Others

APPELLANT

Vs

Devesh Kumar Ojha and Others

RESPONDENT

Date of Decision : 15-01-2015

Acts Referred:

Citation : (2015) 2 ADJ 264 : (2015) 4 ALJ 84 : (2015) 109 ALR 664 : (2015) 2 AWC 1492 : (2015) 2 ESC 786 : (2015) 2 UPLBEC 1117

Hon'ble Judges : Vijay Lakshmi, J.; Rakesh Tiwari, J.

Bench : Division Bench

Advocate : Bhola Nath Yadav and S.C., for the Appellant; A.C. Mishra, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—The petitioner (respondent No. 1 of this appeal) had filed writ petition seeking a writ of mandamus directing the respondents to grant scholarship/fee reimbursement amount of Rs. 80,900/- in Account No. 10686663349 of respondent Devesh Kumar Ojha in State Bank of India, Sirsa Branch, for the Session 2012-13. It appears that respondent No. 1 was a student of B. Tech. in Electrical and Electronics Trade in the Session 2012-13. He was entitled for fee reimbursement under the scheme of the State Government known as "Uttar Pradesh Samanya Varg Dashmottar Chhatrivitti Yojna Niyamawali, 2012" as his father was having income less than Rs. 30,000/- per annum. This application for fee reimbursement was not accepted by the State Authorities on the ground that he has been granted admission on a paid seat and not on a free seat.

2. Subsequently it transpired that the admission of the petitioner was against a free seat by respondent No. 3 but the Institution while uploading the details had incorrectly shown him to be admitted against a paid seat. The State Authorities found that if correct description of the petitioner had been uploaded by the institution, then the respondent Devesh Kumar Ojha was entitled to payment of

fee reimbursement. Therefore, the Joint Director of Education vide order dated 3rd December 2013 directed respondent No. 3 the Institution, to compensate the petitioner monetarily out of its own fund, as the fault was of the institution, as a result of which the petitioner has been denied fee reimbursement.

3. After exchange of the affidavits the Court in para 6 and 7 recorded finding that the scholarship/fee reimbursement is actually awarded by the State through the department concerned, on the basis of information uploaded by the institution imparting education, which is a agency of the Government for gathering information as appeared from the provisions of the scheme itself. Therefore, in this view of the matter it issued a writ of mandamus directing the respondent No. 2 to reimburse a sum of Rs. 80,900/- due to the petitioner.

4. Standing Counsel on behalf of appellant-State has submitted that since the Institution uploaded wrong information about respondent No. 1, therefore, State is not liable to pay the scholarship/fee reimbursement and the order of the Joint Director of Education dated 3rd December 2013 directing respondent No. 3 to compensate the petitioner out of its own fund is just and proper. Per contra the counsel for the respondent submits that the Writ Court, on basis of record and perusal of the scheme has rightly come to the conclusion that the Institution is actually an agency of the State and, therefore, in the facts that mistake has occurred by the Institution it is the State which has to pay the scholarship/fee reimbursement under the scheme.

5. After hearing learned counsel for the parties and on perusal of the aforesaid finding of the Writ Court we are of the considered opinion that under the Uttar Pradesh Samanya Varg Dashmottar Chhatrivitti Yojna Niyamawali, 2012" it is the State which is to pay the reimbursement of the scholarship fee. Admittedly, no fraud has been played by the petitioner (respondent No. 1 in the present appeal) and he has been denied reimbursement to which he is otherwise entitled to, only on the ground that there has been a mistake in uploading of his particulars by the Institution which is an agency acting on behalf and in connection of the work of the State for the success of the scheme and so it cannot be made responsible for reimbursement of fee, payment of which is primary duty of the State. Therefore, the order dated 3rd December, 2013 of the Joint Direction of Education directing the respondent No. 3 Institution to compensate the petitioner monetarily out of its own fund, as the mistake in uploading was of the institution, cannot be sustained. This order would rather be against the spirit of the claim itself which provides for economic help provided by the State to candidates eligible under the scheme whose family earning is less than Rs. 30,000/- per annum.

6. For all the reasons stated above, we do not find any illegality or infirmity in the findings recorded by the Writ Court. The appeal is accordingly, dismissed. No order as to costs.