
(2012) 02 CHH CK 0004

In the Chhattisgarh High Court

Case No : Writ Petition C No. 7162 of 2011

Sushil Kumar Banchhor and Others

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 24-02-2012

Acts Referred:

Citation : (2012) 3 MPHT 47

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Hon"ble Shri Satish K Agnihotri, J.—By this petition, the petitioners seek a direction to the respondents to exempt the petitioner No. 3, who is the son of petitioner No. 1 and 2, from payment of tuition fee and further to refund the entire amount of tuition fee paid by the petitioner No. 1 in respect of petitioner No. 3 with interest at the rate of 17% per annum.

2. The facts, in brief are that the petitioner No. 1 and 2 are the parents of petitioner No. 3, who was admitted to Government Engineering College, RAipur. The petitioner No. 1 and 2, on account of undergoing family planning operation were granted green card. Thus, the petitioner No. 3 became entitled to exemption from payment of tuition fee in engineering course, under the circular dated 30.11.1989. The grant of exemption from payment of tuition fee for medical/engineering colleges is also provided clearly in the green card (Annexure P/1). The petitioner No. 3 made a representation to the respondent No. 3 on 16.6.2011 (Annexure P/2) for exemption from payment of tuition fee and to refund the amount paid earlier. The said representation was forwarded to the Commissioner-cum-Director, Directorate, Technical Education, Raipur on 22.06.2011 (Annexure P/4). The petitioner No. 3 also sought certain information from the Public Information Officer, of the respondent No. 2 on 15.07.2011 upon which it was informed that order dated 27.09.2010 passed in W.P.(C) No. 7222 of 2009, was in respect of the MBBS course, thus, it was applicable for that case

only.

3. Shri Sahu, learned counsel appearing for the petitioners submit that the petitioner No. 3 is entitled to exemption from payment of tuition fee under the provisions of green card, the benefit of which is not being extended to the petitioner No. 3. He further submits that in an identical case, i.e. Dr. (Major) Thakur Ajit Singh & Others v. State of Chhattisgarh & Others. Thus, this petition may also be allowed in the same terms.

4. On the other hand, Shri Arun Sao, learned Government Advocate appearing for the State/respondents submits that the green card facility is not available in the state of Chhattisgarh. In support of his contention, he relies on a communication dated 18.8.2011 (Annexure R/1) addressed to the Secretary, General Administration Department, Government of Chhattisgarh, by the Under Secretary, Health & Family Welfare Department, Raipur.

5. The State Government, by circular dated 31.10.2002, issued by the General Administration Department of the State of Chhattisgarh, clearly stated that all the circulars issued prior to 31.10.2000 by the undivided state of Madhya Pradesh would be applicable in the State of Chhattisgarh until the same is cancelled or amended by the State Government. The circular dated 30.11.1989 provides for exemption in payment of tuition fee in case of admission to medical/ engineering colleges.

6. Indisputably, the petitioner No. 1 and 2 are green card holder, thus, the petitioner No.3, being the son, is entitled to the benefit of exemption of payment of tuition fee who was admitted to Engineering college, in accordance with the circular dated 30.11.1989.

7. The communication dated 18.8.2011 (Annexure - R/1) is of no assistance, as this is a simple letter of Under Secretary, Department of Health & Family Welfare, Government of Chhattisgarh to the General Administration Department wherein it is stated that green card scheme would not be applicable in the State of Chhattisgarh. Therefore, it cannot be held that this communication is either a circular or modification of the circular dated 31.10.2000 issued by the General Administration Department wherein it was clearly stated that all the circulars including the circular dated 30.11.1989 issued prior to 31.10.2000 by the State of Madhya Pradesh would be applicable in the State of Chhattisgarh as held by this Court in Dr. (Major) Thakur Ajit Singh (supra). The said communication has no bearing on the earlier circular.

8. Thus, I unhesitatingly hold that the petitioner No. 3 is entitled to benefit of circular dated 30.11.1989.

9. For the reasons stated hereinabove, the writ petition is allowed. The petitioner is entitled to exemption/refund of the amount of tuition fee, as per the conditions mentioned in the green card.

10. There shall be no order as to costs.