

(2012) 12 RAJ CK 0011
In the Rajasthan High Court
Case No : Civil Writ Petition No. 5857 of 2012

Vishal Sharma

APPELLANT

Vs

Registrar, Rajasthan Technical University and Others

RESPONDENT

Date of Decision : 20-12-2012

Acts Referred:

Citation : (2013) 2 CDR 600

Hon'ble Judges : Sangeet Raj Lodha, J

Bench : Single Bench

Advocate : Harish Purohit and Mr. Nikhil Dungawat, for the Appellant; M.S. Panwar for Mr. K.L. Thakur, for Rajasthan Technical University and Dr. A.A. Bhansali, for the Vyas Institute of Engineering and Technology, for the Respondent

Final Decision : Allowed

Judgement

Sangeet Raj Lodha, J.—The petitioner was pursuing studies of his B.Tech (Computer Science) in Vyas Institute of Engineering & Technology. While he was pursuing studies of Fourth Semester, he was manhandled by some students and therefore, he lodged an FIR No. 196/2012 at Police Station, Basni, Jodhpur against the students indulged in commission of offence. Later, the parties entered into a compromise and accordingly, the criminal proceedings initiated stands dropped. However, taking disciplinary action, vide order dt. 23.5.12, issued by the Principal of the respondent-Institute, the petitioner was rusticated from the college forthwith because of his indulging in indiscipline activities leading to manhandling in the college campus. Vide yet another order, the petitioner was detained from appearing in B.Tech. Fourth Semester (Main) Examination 2012, allegedly on account of shortage of attendance. In these circumstances, the petitioner preferred the writ petition being No. 5857/12 questioning the action of the respondent-Institute in rusticating and debarring him from appearing in the examination. On 30.5.12, this Court while issuing show cause notice to the respondents, passed an interim order in favour of the

petitioner in the following terms:-

In the meanwhile, the petitioner may be permitted to appear in the examination of B.Tech. IV Semester (Main), 2012 scheduled to be held w.e.f. 1.6.12, provisionally. It is made clear that the appearance of the petitioner in the examination in pursuance of the interim order passed by this Court as aforesaid shall not create any right or equity in his favour and the same shall be subject to decision of this writ petition. The petitioners result of the said Examination shall not be declared without specific permission of this Court.

2. The petitioner has appeared in Fourth Semester Examination, however, he was not permitted to appear in back papers of Second Year. During the pendency of the petition, the petitioner approached the respondent-Institute seeking a "No Objection Certificate" for transfer of his admission to some other college, however, the same was refused. In these circumstances, the petitioner preferred yet another writ petition being No. 7838/12 before this Court. It is alleged that on 30.7.12, when the matter was listed, the counsel appearing for respondent-Institute apprised the counsel appearing for the petitioner that the respondent-Institute is ready to give consent for transfer of petitioners admission to some other college and therefore, the petitioner sought permission to withdraw the writ petition, which was granted. Accordingly, the said writ petition stands dismissed as withdrawn. However, when the petitioner approached the respondent-Institute seeking NOC, the same was refused orally and the respondent-University also refused to permit the transfer, as prayed for. In these circumstances, the petitioner has approached this Court by way of writ petition No. 8505/12 seeking directions to the respondents to permit transfer of the petitioner's admission in Third Year of B. Tech. (Computer Science) to any other college/institute in Jodhpur or in any other college, where seats are available.

3. It is submitted by the learned counsel for the petitioner that during the pendency of the writ petition, the respondent-Institute has already issued transfer certificate to the petitioner for admission to any other college. Learned counsel further submits that the petitioner does not want to press the relief in respect of Fourth Semester Examination and if the transfer prayed for is granted, he will take admission in Fourth Semester in any other college where seats are available. Learned counsel submitted that on the facts and in the circumstances of the case, if the transfer prayed for is not permitted, the petitioner's entire career shall stand ruined.

4. It is submitted by the learned counsel appearing for the respondent-institute that in view of the transfer certificate issued, the order of rustication of the petitioner stands withdrawn and since the petitioner is not pressing for the declaration of result of Fourth Semester Examination and intends to take admission in Fourth Semester in any other college where seats are available, therefore, the writ petition No. 5357/12 has rendered infructuous. Learned counsel submitted that the respondent-Institute has no objection to the transfer of the petitioner's admission to any other college.

5. Learned counsel appearing for the respondent-University submitted that the inter college transfer is permitted only in the specified circumstances on the consent being given by the concerned colleges. It is submitted that the petitioner has not submitted consent of the college where he intends to take admission by transfer and therefore, the question of entertaining the petitioner's request for transfer cannot be entertained.

6. Replying the submissions of the counsel for the respondent-University, learned counsel for the petitioner submitted that the petitioner shall obtain the consent of the college where he intends to take admission by transfer subject to availability of vacant seat and therefore, the respondent-University may be directed to permit the transfer on the consent letters of both the colleges i.e. from where the petitioner is seeking transfer and to which he intends to take admission by transfer, being produced.

7. It is true that ordinarily, this Court would not like to interfere in academic matter and permit the transfer of the students from one college to another in mid of the session/course unless it is specifically provided for, but, considering the peculiar facts and circumstances of the case, where the entire career of a student is at stake on account of untoward incident happened, in the interest of justice, this Court considered it appropriate to direct the respondent-University to permit the transfer of the petitioner's admission to any other college in Four Semester where vacant seat is available subject to the petitioner producing the consent letters of both the colleges for the transfer of admission as prayed for. The petitioner shall be liable to pursue the studies of the Fourth Semester in the college to which his transfer is permitted by the respondent-University. Needless to say that the petitioner's Fourth Semester examination wherein he has appeared on the strength of the interim order passed by this Court, as aforesaid, shall stand cancelled.

8. Accordingly, the writ petition No. 5758/12 is dismissed as having become infructuous. The writ petition No. 8505/12 Is allowed in the terms indicated above.

9. It is made clear that this order passed in the peculiar facts and circumstances of the case, shall not be cited as precedent before any Court. No order as to costs.