

(2023) 09 J&K CK 0002

In the Jammu And Kashmir High Court

Case No : LPAOW No. 111 Of 2016, IA No. 1 Of 2016

Yasir Altaf

APPELLANT

Vs

National Institute Of Technology (NIT) And Others

RESPONDENT

Date of Decision : 01-09-2023

Acts Referred:

Citation : (2023) 09 J&K CK 0002

Hon'ble Judges : Sindhu Sharma, J;Puneet Gupta, J

Bench : Division Bench

Advocate : N. A. Ronga, Nazir Ahmad Bhat, Mudasar Ahmad Malik, Nissar Ahmad

Final Decision : Dismissed

Judgement

Puneet Gupta, J

1. The appellant was not party to the OWP No. 1537/2012 which came to be allowed in favour of the respondent herein-Nasir Ahmed Rather with a direction that respondents shall issue degree certificate and the gold medal in favour of the petitioner having undergone M.Tech course in Water Resources Engineering and having topped the results in 2012 in terms of the Senate Resolution passed for 2012 annual convocation.

2. The case set up by the appellant in the present appeal is that the appellant is infact entitled to gold medal and not the private respondent as the respondent has undergone a written repeat examination for backlog of papers in second semester of the M.Tech course. It is also submitted that the NIT Srinagar was not a deemed University prior to the year 2004 but was a College, namely, Regional Engineering College (REC) affiliated with the University of Kashmir and was regulated by the Statute of University of Kashmir pertaining to admissions and other allied procedure of the REC including the award of gold medal to the toppers of the College. The respondent No.1 having not adopted any other rules and regulations for award of gold medal the Statute governing the same and applied by the University of Kashmir, therefore, continued to govern the

respondent No.1 with regard to awarding of gold medal also.

3. The appellant has also relied upon the guidelines regarding awarding of gold medal by the other Universities and, therefore, submits that the appellant is entitled to gold medal and not the respondent No.4. The judgment passed by the learned Writ Court is erroneous and is required to be set aside.

4. The learned counsel appearing for the private respondent has argued that the judgment passed by the learned Single Judge has attained finality and the respondent has been for all practical purposes awarded the gold medal by the respondent-University vide order dated 08.07.2015, issued by Dean Academic Affairs, respondent No.3 in the appeal. The Writ Court while deciding the writ petition has taken care of all aspects of the case and granted relief to the respondent who had preferred the writ petition.

5. It may be mentioned herein that while entertaining the present appeal on 01.10.2015 the court had directed that the gold medal, if any, is to be given to the private respondent, same will be subject to further orders from this Court. As mentioned above, the gold medal stood already awarded to the private respondent vide order dated 08.07.2015 that is prior to passing of the order dated 01.10.2015.

6. The perusal of the judgment impugned reveals that the Writ Court has taken note of the Senate Resolution No. 11/12 on which the respondents in the writ petition relied upon to contest the case of the petitioner therein-Nasir Ahmed Rather. The court noted that the Resolution No. 11/12 pertains to the proposal for convocation 2013 and the resolution which was applied for the convocation 2012 did not lay down the conditions as mentioned in the Resolution No. 11/12. The Resolution of 2013 cannot have a retrospective application is what is also held by the Writ Court. It may be profitable to mention the conditions regarding award and certificates in the resolution which read as under :-

(I)The students do not have any backlog/supplementary during the course.

(II) The gold medalist must have a minimum CGPA of 8.5 the number of students must be more than one.

7. The Writ Court has specifically mentioned in the judgment that the Resolution No. 11/12 mentions that amongst the pass out students of the year 2012 gold medal were to be awarded only to the toppers of each of the programme at M.Tech of the Institute. The respondent herein being the topper in his programme he cannot be denied the award is the reasoning given by the Writ Court.

8. The Court finds no reason to interfere with the judgment passed by the learned Writ Court. The argument of the learned counsel for the appellant that the Statute of University of Kashmir which governed the awarding of gold medal continued to hold the field even after the Engineering College became deemed University does make out that the private respondent having failed to pass out

M.Tech course in one go and, therefore, could not be awarded gold medal cannot be accepted in the case in hand. The Writ Court has specifically referred to the resolution to hold that the Resolution of 13 cannot have a retrospective application cannot be disagreed upon by this Court. Reference by the appellant to the applicability of University Statute after a decade of the respondent-University having become independent entity is misplaced one. Similarly, the counsel for the appellant has referred to regulations regarding awarding of honours and awards to the students of different Colleges of the Country in order to cement his case that the candidate who has not passed the course in one go and, therefore, is not entitled to the certificate or gold medal is misplaced as the regulations which may be governing the other institutions cannot be imported into the institution, respondent No.1.

9. The respondent who has been awarded the gold medal in the year 2015 cannot be deprived of the same and taken back in the present appeal.

10. The appeal is found to be without merit and is, accordingly, dismissed.