
Medical Officer, Baripada and another (1), the apex Court has now held that an order of compulsory retirement is not liable to be quashed by a Court merely on the showing that while passing it uncommunicated adverse remarks were also taken into consideration, and that circumstance by itself cannot form the basis for interference which is permissible only on the grounds such as if the order is passed *mala fide* or based on no evidence or that it is arbitrary in the sense that no reasonable person would form the requisite opinion on the given material i.e. if it is found to be a perverse order. The mere fact that the petitioner has to her credit few publications, as have been noticed above, would not be in itself enough to interfere with the order Annexure P-1 which apparently has been passed on over-all assessment of the work and conduct of the petitioner during the last ten years. Finding no merit in this writ petition, we dismiss the same in limine. There shall be no orders as to costs.

R.N.R.

Before Hon'ble S. S. Sodhi & R. S. Mongia, JJ.

RAJ KUMAR SHARMA,—Petitioner.

versus

STATE OF HARYANA AND ANOTHER,—Respondents.

Review Application No. 172 of 1992.

in C.W.P. 12740 of 1991.

Constitution of India, 1950—Arts. 226/227—Admission granted on basis of fake certificate—Mandamus sought to allow to continue studies and complete course—Such prayer declined.

Held, that the petitioner had obtained admission on the basis of a fake certificate knowing it to be such. We are therefore, constrained to dismiss this writ petition and impose Rs. 1,000 as costs upon the petitioner.

(Para 3)

Ram Lal Gupta, Advocate. for the Petitioner.

R. C. Setia, Addl. A.G. Haryana, for the Respondents.

(1) J.T. 1992 (2) S.C. I.

JUDGMENT

S. S. Sodhi, J.

(1) Having obtained admission on the basis of a certificate purporting to have been issued by an institute which had ceased to exist as far back as 1974, the petitioner now seeks the intervention of this Court to continue with his studies till the completion of his course. The prayer to this effect being founded upon the contention that there are judicial precedents to the effect that once a student is admitted and allowed to pursue his studies for almost a year, he should be permitted to complete his course.

(2) The petitioner claimed to have passed the Intermediate Examination from The Varanasi Sanskrit Vishvavidalya, Varanasi in 1990 and on the basis thereof obtained admission in the 2nd year of the two Year Diploma Course in Pharmacy. He was admitted to the College in December, 1990. Later in August 1991 when permission-cum-admission form of the petitioner were received by the State Board of Technical Education, Haryana, the fake certificate on the basis of which the petitioner had obtained admission was detected. No such University or institute being in existence after 1974, admission granted to the petitioner was consequently cancelled. The petitioner thereupon filed Civil Writ Petition 12740 of 1991.

(3) There can be no escape from the conclusion that the petitioner had obtained admission on the basis of a fake certificate knowing it to be such. We are therefore, constrained to dismiss this writ petition and impose Rs. 1,000 as costs upon the petitioner.

(4) Adverse comment must also be made with regard to the conduct of the Principal of the Janta College for Pharmacy, Butana, in granting admission to the petitioner on the basis of this fake certificate. Gross negligence on his part, if not connivance, is clearly writ large. We consequently direct that a copy of this order be forwarded to the Director-cum-Registrar. The State Board for Technical Education, Haryana in order that a notice to this effect be placed on the personal file of the Principal concerned.

ORDER

A blatant attempt on the part of the petitioner to seek relief on the basis of a fake certificate is what constitutes the glaring feature of this writ petition.

Armed with a fake Intermediate Certificate of "The Varanasi Sanskrit Vishvavidalya, Varanasi", the petitioner obtained admission to the 2nd Year Pharmacy Course at the Janta College for Pharmacy, Butana. He claimed to have passed this examination in 1990.

According to the return filed on behalf of the State Board of Technical Education, Haryana, the Institute known as "The Varanasi Sanskrit Vishvavidalya, Varanasi" ceased to exist in December 1974. Confronted with this reply, counsel for the petitioner insisted that similar certificates continue to be issued to other candidates even after the name of this Institute had been changed in December 1974. An adjournment, as sought for by him, for this purpose, was granted. No wonder, however, that counsel failed to bring-forth on record any such certificate praying therein that he should be permitted to take the 2nd Year Pharmacy Examination. This writ petition was dismissed by order dated February 24, 1992, with the finding :—

"There can be no escape from the conclusion that the petitioner had obtained admission on the basis of a fake certificate knowing it to be such."

Now, as mentioned earlier, the petitioner seeks review of the order dismissing his writ petition relying upon judicial precedents. It would be seen, however, that all such precedents that were sought to be relied upon are clearly distinguishable from the facts here.

In a case like the present where the admission is founded upon a certificate of a non-existent institution, fraud and wrong doing on the part of the petitioner stands writ large. Relief under Article 226 of the Constitution to such a petitioner would clearly be unwarranted.

Turning to the precedents sought to be relied upon by the counsel for the petitioner, the first was *Mehnga Singh v. The State of Punjab and others* (1). The petitioner there had obtained admission to the B.Sc. Medical Technology (Laboratory Course) from the reserved quota for Scheduled Castes. In his application for admission he had not stated that he belonged to the Scheduled Caste but at the time of interview he produced a certificate issued by Additional District Magistrate to the effect that he belonged to the community of 'Ramdasia' which has been declared as Scheduled Caste. The

petitioner was granted admission and it was after he had completed his first year and was studying in the second year that an order was passed withdrawing his admission on the ground that he was not a member of the Scheduled Caste. The petitioner was allowed by this Court to complete the course on equitable grounds. The Court being influenced, in this behalf, by the fact that the certificate on the basis of which the petitioner had obtained admission was a genuine one even though what was stated therein may be wrong.

Next, *Hanesh Kumar v. Guru Nanak Dev University* (2), concerned admission obtained on the basis of a certificate issued by Bihar Pradesh Shiksha Parishad Shripalpur, Patna. The petitioner applied for admission on the basis of this certificate and it was granted to him by the College and the admission was also approved by the University, believing this to be a recognised examination. Later, however, it was discovered that it had not, in fact, been recognised. The respondent-University then cancelled his admission on this ground. When moved, the Court directed the University to declare the result of the petitioner in the examination which he had taken consequent upon his admission to the course. The point to note here again is that there was a clear finding that there had been no misrepresentation or fraud on the part of the petitioner.

Finally, there is *Kamal Masih v. Guru Nanak Dev University* (3), which again concerned the same Bihar Pradesh Shiksha Parishad and the admission granted on the basis thereof. Here too it was later discovered that this was not recognised and the admission granted to the petitioner was consequently cancelled. In this case too the Court directed the University to declare the result of the examination that the petitioner had appeared in. This relief again being founded upon the fact that there was no concealment of facts or misrepresentation by the student.

It would be pertinent to quote an observation made in *Kamal Masih's case* (supra) which indeed is of relevance here :—

“In other words, except where there is mis-representation, concealment of facts, fraud or other wrong-doing on the part of the candidate, admission once granted, even on the

(2) 1990 (2) S.L.R. 311.

(3) 1992 (1) S.L.R. 617.

basis of some qualification not recognized by the University, it cannot, on that account, be cancelled, if at that stage, it would be inequitable to the candidate, like where he would for no fault of his, thereby lose a year. This view is also clearly in accord with binding precedents on this Court."

It may be mentioned here that in the review application filed by the petitioner, reference had been made to two writ petitions where, according to the petitioner, this Court had upheld the Matriculation Certificate issued in June 1990 by the Varansi Sanskrit Vishwavidyalaya, Varanasi. These being Civil Writ Petition 1345 of 1990 (*Smt. Raj Bala v. State of Haryana and others*) decided on February 13, 1991 and Civil Writ Petition 5704 of 1991 (*Gian Chand v. State of Haryana and others*). This is, however, not borne out by a reading of the orders passed in these writ petitions. There, in fact, no question was raised with regard to the validity of these certificates. They cannot thus be taken to advance the case of the petitioner.

It would thus be seen that all the judicial precedents that the petitioner sought to rely upon where no fraud, concealment or misrepresentation of facts had taken place, unlike the present where the admission was founded upon fraud sought to be committed by the petitioner upon the college.

No occasion thus arises to grant the petitioner relief claimed. This Review Application is consequently hereby dismissed with Rs. 500 as costs.

J.S.T.

Before Hon'ble A. L. Bahri and N. K. Kapoor, JJ.

M/S DIWAN SINGH AND COMPANY AND
ANOTHER,—Petitioners.

versus

STATE OF PUNJAB AND OTHERS.—Respondents.

Civil Writ Petition No. 8186 of 1993.

November 10, 1993.

Constitution of India, 1950—Art. 226—Auction of liquor vends—Non-deposit of licence fee on the day of auction due to bank strike—Judicial review—Auction cannot be set aside on the ground of non-deposit as per terms of auction—Petitioner not the highest bidder