

Before Ranjit Singh, J.

DILJOT SINGH,—Petitioner

versus

**KURUKSHETRA UNIVERSITY, KURUKSHETRA
AND OTHERS,—Respondents**

CWP. No. 7161 of 2010

18th November, 2010

Constitution of India, 1950—Art. 226—Admission to 3 years LL.B course—Petitioner appeared in 1st year examination and declared successful—Result of 2nd year examination not declared—Petitioner secured less than 45% marks in graduation examination—Not eligible for admission to LL.B Course—Cancellation of admission—University never approving admission and raising objection about eligibility of petitioner—University even seeking explanation of Principal of College—Plea of estoppel—Not attracted—Petitioner cannot be permitted to continue his studies as it would otherwise lead to defeating very right of large number of persons—Since petitioner had not made any misrepresentation, thus, a good case is made out for directing college to refund entire tuition fees charged for all these years and also compensate him @ Rs. 50,000 per year for total period of three years for retarding life and career of petitioner.

Held. that the admission of the petitioner has been cancelled after due consideration as he was not eligible for getting admission and apparently the college is seen conniving with the petitioner to admit ineligible person. If admissions of such ineligible candidates are ignored, it will amount to a fraud and the colleges would, thus, have a licence to violate the eligibility conditions to admit their favorites either on consideration or otherwise. If this action of the College is acquiesced in any manner, it would lead lowering the standard.

(Para 14)

(5) Notice of motion was issued and the University was given liberty to take decision in regard to the validity of the admission of the petitioner. The stand of the University, as projected, is that the petitioner is ineligible for admission to LL.B. Course as he had secured less than 45% marks in graduation examination. It is stated that respondent No. 5-College had admitted the petitioner though he was ineligible and accordingly blame in this regard is put on the college. By that date, the College had not filed any response and accordingly the counsel appearing for the college prayed for time to file reply. At that stage, the counsel appearing for the college was asked to be prepared to make submission as to why college should not compensate the petitioner for admitting him despite being ineligible and, thus, creating this situation. The college has accordingly filed reply stating that after admission, the registration return alongwith the Photostat copies of the certificates were sent to the University for verification and registration. The University had then issued roll number and thus, the petitioner appeared for 1st year LL.B. Examination for which the University also declared a result. The college accordingly would justify their action in permitting the petitioner to attend 2nd year classes.

(6) Initially, the roll number was not issued to the petitioner and so he missed three papers of the 2nd year examination, but subsequently the petitioner received a roll number at his residence and accordingly he appeared in the remaining six papers. Thereafter the University did not declare the result of the 2nd year examination leading to filing of the present writ petition.

(7) As per the stand of the University, the petitioner has not approached the court with clean hands. Obvious stand is that the petitioner has less than 45% marks in the graduation examination and hence he was ineligible for admission in the LL.B. Course. The petitioner is having 43.7% marks in B.A. and admission for LL.B. (Professional) 3 years Degree Course is as under :—

“Bachelor’s Degree or Master’s Degree (2-Year Course) Examination of the Kurukshetra University or any Examination recognized as equivalent thereto, with at least 45% marks in the aggregate (40% for SC/ST candidates (One-Year Degree/ Diploma Course like, D.P. Ed., M.Ed., B.Ed., B. Lib., Sc., etc. shall not be considered as equivalent to Bachelor’s Degree).”

(8) As per the University, the college had admitted the petitioner on their own at the institution level and this admission was not on the basis of any entrance examination. When the college sent the application form of the petitioner duly signed by him and his father, it was noticed that he had less than 45% marks in the qualifying examination and as such was ineligible for admission to LL.B. course. Reference is made to undertaking given by the petitioner to the effect that he was taking admission in the college at his own risk and responsibility and subject to confirmation of his eligibility by the University. This undertaking given by the petitioner reads as under :—

“(iv) That I am taking admission in the college at my own risk and responsibility subject to confirmation of my eligibility by the University. If I am declared ineligible at any stage for admission to the course and my admission is cancelled by the University *abinitio*, I shall have no claim whatsoever for this.”

(9) It is then disclosed that admission of the petitioner was cancelled on 7th December, 2007 on the ground that petitioner was not eligible as per conditions laid down in the prospectus. Not only that, it was also observed that the Vice Chancellor has taken a serious view. Despite that, the college allowed the petitioner to appear in the University examination to the 1st year. Upon this, the University had asked the Principal to explain reason for failing to comply with the directions issued by the University. A letter dated 26th November, 2008 in this regard is annexed with the reply as Annexure R-1/3. It is, thus, stated that the college had permitted the petitioner to appear in the examination despite his admission having been cancelled by the University. Subsequently, University has placed the matter before a committee consisting of Dean, Academic Affairs and Dean, Faculty of Law. The committee required that the explanation of the Principal be called for. Accordingly a letter seeking explanation was issued on 31st March, 2009. The Principal statedly submitted evasive reply on 10th April, 2009. The principal then was directed to explain his position further. In the meantime, the petitioner submitted a representation dated 25th May, 2009 praying for permission to appear in the 2nd year examination. Since the matter was under consideration, the University decided to permit the petitioner to appear provisionally in the 2nd year examination with a condition that he will be bound by the final decision taken by the University. The Vice

Chancellor ultimately decided that the admission granted to the petitioner cannot be regularised as he was not eligible for said admission. This decision was taken by the Vice Chancellor on the recommendation/opinion of the committee, consisting of Dean of Law, Deen of Academic Affairs and Prof. Suman Gupta from Department of Law. Accordingly, the petitioner was never allowed permission to seek admission in the 3rd year examination. Thus, the University would put the entire blame on the college, which had admitted the petitioner without checking his eligibility and for creating this mess.

(10) When the writ petition came up for hearing on 13th September, 2010, the counsel for the University pointed out that the petitioner was permitted to appear in the final examination and his result had also been declared. The counsel for the University then prayed for time to have instructions. The counsel has then filed an additional affidavit explaining the position and the circumstances under which the petitioner had managed to appear in the final examination.

(11) In the additional affidavit now filed, the University has reiterated the fact that the college had admitted the petitioner though he was ineligible and would rely upon the order dated 7th November, 2007, whereby this admission was cancelled. As per the University, the petitioner was never registered as a student and no registration number was issued to him. Still, the College had allowed the petitioner to take 1st year LL.B examination. The University then constituted a Committee, which approved the earlier order that the admission of the petitioner could not be regularised. It is also disclosed that the Principal of the College did not include the name of the petitioner in a list of candidates admitted in 3rd Year LL.B. to the Registration Branch. The petitioner still, in connivance with the Principal, managed to send his admission form alongwith other students. The Principal did this despite the fact that he had himself certified that the petitioner had not attended 75% lecturers and that he was not admitted in LL.B. 3rd Year course. It is only under these circumstances that provisional roll number was issued to the petitioner in this confusion. The result of 3rd year examination has accordingly been cancelled and the Principal in this regard has been informed. He has also been asked to explain as to how the examination form of the petitioner was forwarded to the University.

(12) To an extent, the petitioner appears justified in making a grievance that the University took rather long time to decide the issue and in the meantime had permitted the petitioner to appear in the examination. The petitioner, therefore, would attempt to contend that cancellation of admission in the year 2007 is farcical and the University also cannot be absolved of blame for creating this situation.

(13) The counsel for the petitioner relies upon **Shri Krishan versus The Kurukshetra University Kurukshetra, (1)**, where it is held that once the candidate is allowed to take examination, rightly or wrongly, then the statute which empowers the University to withdraw the candidature of the applicant has worked itself out and the candidate cannot be refused admission subsequently for any infirmity which should have been looked into before giving the candidate permission to appear. No doubt, the Hon'ble Supreme Court in **Shri Krishan's case** (supra) has observed, but these observations, in my view, were made in a different context and in this case the eligibility of the candidate for admission in the course was not the issue. In the case **Shri Krishan** (supra), appellant was a teacher and the University was running a course and had extended the facility to persons, who are in service to attend evening classes. There was no issue of the eligibility for admission in the course, but the issue was only eligibility for appearing in the exam. The grounds urged in this regard were that the candidature could not be withdrawn for any reason and secondly that the action of the University was *mala fide*. No such issue is arising in the present case.

(14) The admission of the petitioner has been cancelled after due consideration as he was not eligible for getting admission and apparently the college is seen conniving with the petitioner to admit ineligible person. If admissions of such ineligible candidates are ignored, it will amount to a fraud and the colleges would, thus, have a licence to violate the eligibility conditions to admit their favourites either on consideration or otherwise. If this action of the college is acquiesced in any manner, it would lead lowering the standard.

(15) Reference to the case of **Sanatan Gauda versus Berhampur University and others (2)**, may also not help the cause of the petitioner as in this case there was no requirement of any particular marks for post-graduate students for getting admission to law course. The candidate in this

(1) AIR 1976 S.C. 376

(2) AIR 1990 S.C. 1075

case, thus, was found eligible for admission, which is not the position in the case at hand. The ratio of law laid down in this case also, thus, would not be attracted to the facts of the present case. In **Ashu Singla versus Punjabi University, Patiala and another, (3)**, this court has taken a view that when no objection was raised by the University about the eligibility and there was no evidence of any misrepresentation by the petitioner, then the respondent would be estopped to take the plea of eligibility after allowing the petitioner to prosecute his studies in part I and part II. In the instant case, the University never approved the admission and had raised the objection about the eligibility of the petitioner for admission to L.L.B. course. At no stage, the University had accepted or ignored this issue for the petitioner to raise a plea of estoppel. Of Course, the University apparently has not conducted itself well in allowing the issue to drift of which the petitioner was able to take advantage. At the very first opportunity, the University not only raised an objection in regard to this admission but had cancelled the same as can be seen from Annexure R-1/2. The University had even sought the explanation of the Principal of the College and subsequently had also asked the Principal to explain as to why he did not comply with the order of the University and had allowed the candidate to appear in 1st year examination. In this background, the plea of estoppel on the basis of ratio of law laid down in **Ashu Singla's case** (supra) would not be attracted to the facts of the present case. The petitioner, who concededly was not eligible to get admission, cannot be permitted to continue his studies as it would otherwise lead to defeating the very right of large number of persons, who could have applied but did not apply thinking themselves to be not eligible for applying and, thus, the advantage which the petitioner obtained illegally would be unfair and impermissible in law.

(16) At the same time, It cannot be ignored that the college has in a way spoiled two years life of the petitioner. If the college had been vigilant enough to check the eligibility of the petitioner and had not admitted the petitioner, he may have been able to pursue his career elsewhere. The result is that the petitioner has lost three valuable years of his life. This reason alone of course would not be enough to ignore this illegality and to permit the petitioner to continue this study, though he was not eligible to get admission into the L.L.B. course. Since the petitioner had not made any misrepresentation and *prima-facie* it is the college which apparently for

some petty gains appears to have admitted the petitioner in the LL.B. course that this situation has resulted. Thus a good case is made out for directing the college to compensate the petitioner for spoiling life and career certainly. The college accordingly is not only required to refund the entire tuition fees charged from the petitioner for all these years, but in addition would also compensate the petitioner at the rate of Rs. 50,000 per year for total period of three years for retarding the life and career of the petitioner by this much time. Thus, the college would pay in addition to a sum of Rs. 1,50,000 by way of compensation/damage for the harm that the college has caused to the life of the petitioner. Besides, the petitioner would be at liberty to seek further damages if he thinks that harm and loss caused to his life and career is more than what is assessed above by approaching the appropriate forum, which shall while awarding compensation/damage keep in mind the amount as awarded by this court while assessing the damages to the petitioner, if any, found due.

(17) The writ petition is accordingly disposed of in the above terms.
