

Court No. - 19

Case :- MISC. SINGLE No. - 23929 of 2019

Petitioner :- Sahir Sohail & Ors.

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lucknow & Ors.

Counsel for Petitioner :- Anilesh Tewari, Desh Deepak Singh

Counsel for Respondent :- C.S.C., Atul Kumar Dwivedi

Hon'ble Vivek Chaudhary, J.

1. Heard learned counsels for parties.
2. Petitioners, who are doing courses in different years of institutions affiliated with Dr. A.P.J. Abdul Kalam Technical University (AKTU) have approached this Court for quashing of order dated 14.08.2019 and for mandamus directing the respondents to allow the petitioners to continue their studies regularly. All the petitioners have done their intermediate from the Jharkhand State Open School (JSOS), Shiksha Bhawan, Behind Tagore Hill, Morabadi, Ranchi, Jharkhand.
3. By the impugned order, finding the JSOS to be non-recognized, the AKTU has taken decision to delete the names of the petitioners from the AKTU. Admittedly, at the time of admissions, the AKTU recognized the Class-XII certificate of JSOS. Thus, certificate being recognized, petitioners were permitted admissions and are now they are in different years of the different courses being run by the institutions affiliated to AKTU. Later it appears, AKTU found JSOS a fraudulent body and is not recognized. Therefore, now they have proceeded to cancel the admissions of the petitioners. This fact is accepted by AKTU in paragraph 3D of counter affidavit wherein it states:-

"The answering respondents in a bonafide belief has issued the admit cards to the students for the reason that the Jharkhand State Open School is having its own website available on the Internet where also, it has been mentioned that the Jharkhand State Open School is registered under the Government of Jharkhand. In such circumstances at the relevant time, there was no occasion for the answering respondents to doubt the educational qualification of the petitioners

and hence, the petitioners continued their studies."

4. Counsel for the petitioners has placed reliance upon the following judgments:-

(i) Ashok Chand Singhvi Vs. University of Jodhpur and Others reported in (1989) 1 SCC 399;

(ii) Suresh Pal and Others Vs. State of Haryana and Others reported in (1987) 2 SCC 445.

5. In paragraph-17 of the *Ashok Chand Singhvi case (supra)*, the Supreme Court held:-

"17. It is submitted on behalf of the University that it was through mistake that the appellant was admitted. We are unable to accept the contention. It has been already noticed that both the Dean and the Vice-Chancellor considered the objections raised by the Officer-in Charge, Admissions, and thereafter direction for admitting the appellant was made. When after considering all facts and circumstances and also the objections by the office to the admission of a candidate, the Vice-Chancellor directs the admission of such a candidate, such admission could not be said to have been made through mistake. Assuming that the appellant was admitted through mistake, the appellant not being at fault, it is difficult to sustain the order withholding the admission of the appellant. In this connection, we may refer to a decision of this Court in Rajendra Prasad Mathur Vs. Karnataka University and another, [1986] Suppl. SCC 740. In that case, the appellants were admitted to certain private engineering colleges for the B.E. Degree Course, although they were not eligible for admission. In that case, this Court dismissed the appeals preferred by the students whose admissions were subsequently cancelled and the order of cancellation was upheld by the High Court. At the same time, this Court took the view that the fault lay with the engineering

colleges which admitted the appellants and that there was no reason why the appellants should suffer for the sins of the management of these engineering colleges. Accordingly, this Court allowed the appellants to continue their studies in the respective engineering colleges in which they were granted admission. The same principle which weighed with this Court in that case should also be applied in the instant case. The appellant was not at fault and we do not see why he should suffer for the mistake committed by the Vice-Chancellor and the Dean of the Faculty of Engineering."

6. The judgment of **Suresh Pal and Others (supra)** is a short judgment of three paragraphs which reads:-

"1. Special Leave granted.

2. The certificate course in Physical Education in Shri Hanuman Vayayam Prasarak Mandal, Amravati, Maharashtra was recognized by the Government of Haryana in 1975 for appointment to the post of Physical Training Instructor in Govt. Schools in Haryana. On the basis of this recognition granted by the State of Haryana to the certificate course of physical education in this Institute in Amravati, the petitioners joined the certificate course and were receiving instruction in this Institution until 9th January, 1985 when the State of Haryana derecognized the certificate course with the result that the certificates obtained by the petitioners at the end of the certificate course became useless for obtaining service as Physical Training Instructor in Haryana. The petitioners, therefore, filed a Writ Petition in the High Court of Punjab and Haryana for a writ directing the State of Haryana to recognise the certificates obtained by them, because they had joined the course on the basis of the recognition given by the State of Haryana and the recognition was in force at the time when they joined the course. The Writ Petition was however rejected summarily by the High Court and hence the present appeal

by special leave.

3. We are of the view that since at the time when the petitioners joined the course, it was recognised by the Govt. of Haryana and it was on the basis of this recognition that the petitioners joined the course, it would be unjust to tell the petitioners now that though : at the time of their joining the course it was reognized, yet they cannot be given the benefit of such recognition and the certificates obtained by them would be futile, because during the pendency of the course it was derecognized by the State Govt. on 9th January, 1985. We would, therefore, allow the appeal and direct the State Govt. to recognize the certificates obtained by the petitioners and others similarly situate as a result of completing the certificate course in Shri Hanuman Yayayam Prasarak Mandal Amravati for the purpose of appointment as Physical Training Instructor in Govt. Schools in Haryana. Of course, if any person has joined the certificate course after 9th January, 1985 he would not be entitled to the benefit of this order and any certificate obtained by him from the said Institute would be of no avail. There will be no order as to costs of the appeal."

7. In the present case also, the students are not at fault. They were also deceived by the JSOS, as the AKTU was deceived. AKTU has also granted them admission and number of petitioners have already cleared their first year and are in their second year. Therefore, I do not find, either in law or in equity, that petitioners can be refused to complete their education now at this stage. Rather it would be very harsh upon the petitioners, who now are all aged around 19-23 years of age, to be declared as Xth passed and asking them to complete their XIIth again. They are all students of different technical courses and are successfully attending them. Even the University had recognized the certificates of Jharkhand State Open School when the petitioners took admissions.

8. Therefore, since there is no fault of the petitioners, the impugned order dated 14.08.2019 is set aside.

9. The respondent AKTU is directed to permit the petitioners to continue their studies as regular students, as they were already doing before passing of the impugned order.

10. With the aforesaid, the writ petition is *allowed*.

Order Date :-06.12.2019

Arti/-

(Vivek Chaudhary,J.)