

Rahul Singh Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Feb-17-1992

Reported in : AIR1993All163

Judge : M.L. Bhat, J.

Acts : [Constitution of India](#) - Articles 12, 14 and 226

Appeal No. : Civil Misc. Writ Petn, No. 27963 of 1991

Appellant : Rahul Singh

Respondent : State of U.P. and Others

Advocate for Def. : Standing Counsel

Advocate for Pet/Ap. : D.K.S. Rathor and ;Baldeo Raj, Advs.

Judgement :

ORDER

1. The petitioner seeks a writ of mandamus commanding respondents Nos. 2 and 3 to admit him to Class XI in 1991-92 Session in Biology/Commerce in St. Joseph College, Allahabad. The petitioner's case is that he is student of St. Joseph College, Allahabad and has been studying there from Class VI. He is said to have passed Indian Certificate of Secondary Examination (I.C.S.E.) New Delhi in the year 1991 conducted by the Board Indian Council Secondary Examination, New

Delhi. Thereafter, he applied for admission in Class XI in commerce and Biology but was denied the admission without giving any reason. He is said to have passed examination with 52.4% marks which makes him eligible to seek admission in Class XI. Other students who have secured less marks than the petitioner have been given admission in Class XI by respondent No. 2. The petitioner has been denied admission without any cause. The petitioner and his father approached respondents Nos. 2 and 3 with a prayer that he be granted admission but the meeting did not yield any fruit, therefore, writ is filed by the petitioner. In Allahabad City only two English medium institutions are available. The petitioner applied for admission in Boys High School also which was the only alternative for him. He was advised by the Principal of the said institution to approach the Principal of St. Joseph's College for admission. The petitioner has been trying to seek admission in the respondents' institution but he has not been able to do so and he has been refused the admission without any reason.

2. It is stated that respondents Nos. 2, 3 and 4 have public duty, imposed on them by the constitution to admit the petitioner and allow him to pursue his studies. They have admitted students with inferior merits. The petitioner is refused admission though he is superior in merits than the boys who have been admitted. The respondents' refusal to admit the petitioner is arbitrary and violative of Article 14 of the Constitution because the students inferior to the petitioner in merits have been granted admission but the petitioner has been refused admission which is negation of equality. Article 14 of the Constitution forbids discrimination or class legislation. The respondents' refusal to admit the petitioner is discriminatory, therefore. Article 14 of the Constitution is invoked.

3. The petitioner's prayer at the interim stage for provisional admission was rejected by this Court vide its order dated 11-10-91. Other side has already filed a counter-affidavit to which rejoinder affidavit also is filed. Therefore, the learned counsel prayed that the writ petition be finally disposed of. Any delay caused in disposal of the writ petition is said to be detrimental to the interest of the petitioner. Therefore, in accordance with the Rules of the Court I proceed to decide this petition finally on merits.

4. In the counter-affidavit filed by the principal of St. Joseph's College, Allahabad it is stated that the present writ petition was not maintainable because the school is run by a private organisation and is not society or authority under the State within meaning of Article 12 of the Constitution. The St. Joseph's College is minority institution and is unaided. It is a private institution not governed by any statutory Rules or law. It is stated that Court has no power to interfere in the internal affairs of the management of the institution. There is no statutory obligation on the College to admit the petitioner, therefore, no mandamus can be granted to the petitioner. The admission of a student to the College is domestic affairs of the institution to be dealt with by the management and not by the Court. The petitioner has no legal right to, seek admission in the College. The discretion of the institution in the matter of grant of admission, cannot be interfered with. The reasons for refusing admission to the petitioner are given in para 16 which are summarised herein below.

(1) It is stated that in September, 1990 when Ante-Mandal Commission Rally was held in P. D. Tandon Park, the petitioner had gone to the dies, constructed in the Park and made a false statement in public that he along* with some other students were suspended by the Principal for pasting posters on the College walls. This statement was reported in the local news paper, named Patrika. The Statement was absolutely false and baseless, the statement was given to malign the institution and the Principal. As a result of this false statement in public the students' leader of Allahabad started coming to the College and threatened the Principal with dire consequences. These student leaders are believed to have come to the institution at the instance of the petitioner.

(2) On 1-4-91 when I C.S.E. examination was going on and on the day of the last paper the petitioner with few of his friends had committed serious mischief and after doing the said mischief they were found standing near the cycle stand of the College at 5 p.m. after college hours and when they were questioned by the Principal they sped away on their vehicles and the petitioner and two other students after a few minutes returned back and started abusing the Principal in Hindi. The College did not want to disturb the studies of the petitioner at that stage as he was in the final year (Class X) and as such no action was taken against him.

(3) On 13-8-91 the petitioner along with one Omji Mishra and Sanjay Tewari, City President of N.S.U.I. entered the College premises and manhandled the Principal. A.F.I.R. was lodged with Connington Policestation on 13-8-91. The photostat copy whereof is placed as Annexure C.A. 2 to the counter affidavit. The Principal was, therefore, justified in refusing the admission to the petitioner.

5. The petitioner is said to have admitted his guilt in five letters which are annexed as Annexures C.A, 2 to C.A. 7 After admission of the guilt, the petitioner had no right to seek admission in Class XI Reason for denial of admission to the petitioner was his conduct which had vitiated the atmosphere of the college. It is, however, admitted that some persons had approached the Principal on behalf of the petitioner for giving him admission in the College but the same was refused.

6. From the letters which are annexed with the Counter affidavit, it appears that the petitioner has admitted his guilt and has thrown himself at the feet of the Principal, but his request was not accepted.

7. The petitioner has filed rejoinder-affidavit also. He has refuted the contents of the counter-affidavit and denied his alleged involvement in maligning the institution and the Principal. The petitioner has denied his involvement in the incident dated 13-8-91.

8. I have heard learned counsel for the parties, and perused the record. Learned counsel for the petitioner submits that the petitioner is not guilty of any misconduct or misbehaviour with the principal or with any staff member, nor has done any thing which would disentitle him to seek admission to class XI in the College. It is stated that respondent Nos. 2, 3 and 4 have a statutory obligation to admit the petitioner and allow him to persue his studies. It is also stated that the boys with lesser merits have been admitted and the petitioner is denied admission with a superior merit. Therefore, the respondents' attitude is discriminatory and violative of Art. 14 of the Constitution.

9. Learned counsel for the respondents has raised preliminary objection about the maintainability of the writ petition. It is stated that the College is a private unaided institution not governed by any statutory rule, therefore, it cannot be treated as an

authority under the State and the writ petition is not maintainable.

10. As to whether writ of mandamus would be maintainable against the respondents or not is not required to be decided in this writ petition. Whether or not the respondents have obligation to admit the petitioner in Class XI is also not required to be decided because on merits, it appears that refusal to grant the admission to the petitioner in class XI by the respondents is for reasons. If those reasons are accepted as valid then this Court cannot interfere with the domestic affairs of the institution. Learned counsel for the respondents also has invited my attention to few authorities in this writ petition. These are AIR 1959 All 224, *Km. Asha Lata v. The principal Meerut College, Meerut*, AIR 1973 Madh Pra 84 S. P. *Manocha v. The State of Madhya Pradesh* and AIR 1973 Punj and Hary 390 *Cheman Lal Talwar v. Guru Nanak University and another*.

11. In the present case it is proved beyond doubt that the petitioner's conduct in the College has not been fair. He has gone to the extent of Manhandling the principal and abusing him in his office along with few others for which an FIR was also registered. As to whether on the basis of that FIR any action was taken or not is not relevant but the fact remains that the behaviour of the petitioner in the College has been unwarranted, to say the least. By his own behaviour he has disentitled himself to seek admission in Class XI. After admitting his guilt that he was responsible for indiscipline, it does not seem that the respondents have committed any error in refusing admission to him. The grant of admission or refusal to grant admission, in these circumstances was purely a domestic matter to be decided by the respondents who are responsible for maintaining certain standard in their institutions and to prevent breach of indiscipline in the college. The petitioner has conveniently omitted to say any thing in his writ petition about his letters written to the institution in which he has admitted his guilt which would make it clear that the petitioner has not come with clean hands to the Court.

12. It is not a case where the petitioner has unblemished record and he has been denied admission with some oblique motive or out of some malice. This Court would not pass any order which wilt encourage indiscipline amongst the students, or interfere in the domestic affairs of an educational institution, whereby its

discipline is likely to be affected.

13. For the reasons stated above, I am convinced that the respondents were justified in refusing the admission to the petitioner in Class XI. This Court cannot interfere with the matter. It is for the respondent Nos. 2, 3 and 4 to consider the matter. They cannot be compelled to admit a student whose presence in the institution is unwarranted in their opinion.

14. Accordingly, the writ petition fails and is dismissed.

15. Petition dismissed.

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