

Manoj Kumar Vs. Institute of Engineering and Technology and ors.

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Court : Allahabad

Decided On : Aug-23-1996

Reported in : (1997)1UPLBEC80

Judge : B.K. Singh, J.

Appeal No. : Writ Petition No. 1726 (M/S) of 1996

Appellant : Manoj Kumar

Respondent : institute of Engineering and Technology and ors.

Advocate for Def. : A.K. Bajpai, Adv.

Advocate for Pet/Ap. : O.P. Srivastava, Adv.

Disposition : Petition dismissed

Judgement :

B.K. Singh, J.

1. The petitioner who was a candidate in the Combined Entrance Examination (CEE), 1996 has preferred this writ petition for issuing a writ of mandamus to command the opposite parties to arrange for Counselling/Interview of the petitioner in Backward category and accordingly admit him into B. E./B. Tech Course alongwith the others.

2. On behalf of the Institute of Engineering and Technology, Lucknow, Admission Committee, Combined Entrance Examination-1996 and Co-ordinator, Admission Committee, CEE-96, Institute of Engineering and Technology, Lucknow Sri A. K. Bajpai, Advocate has put in appearance and has filed Counter-affidavit of Sri K. P. Sharma, who is a responsible Officer posted on the post of Officer on Special Duty (Legal), Combined Entrance Examination, 1966.

3. I have heard the learned Counsel of the petitioner.

4. He has submitted that the petitioner had applied only as a candidate of Backward category and not in Freedom Fighter category. The petitioner was, therefore, entitled to be considered in the reserved category of Backward Class. The opposite parties have wrongly considered the petitioner under category of Freedom Fighter's dependant. The learned Counsel submits that when the petitioner appeared for counselling/ interview then he was not permitted on the ground that he had wrongly shown himself in his Form as a dependant of Freedom Fighter and also from the 'Rural' background. Since the petitioner was not given the benefit of being a candidate of Backward Class and he has not claimed any benefit of Sub-category of Freedom Fighter, therefore, the rejection of the petitioner's category on the ground that he had only claimed the benefit of dependant of Freedom Fighter is wholly illegal. He should have been considered in Backward Class category only. The petitioner has also claimed that some manipulation has been done in his Form. The action of the opposite parties is arbitrary and violative of the provisions of the Constitution. As such the writ petition is liable to be admitted and the petitioner is entitled to the reliefs claimed in the writ petition.

5. On behalf of opposite parties, Sri A. K. Bajpai, Advocate has been heard.

6. He has submitted that in the Counter-affidavit a Photostat copy of the Form submitted by the petitioner has been attached. In this Form, the petitioner has claimed his category of Backward Class in sub-category of dependant of Freedom Fighter and claimed the weightage for his Rural background.

7. The learned Counsel submits that as per instruction contained in the Brochure the applicant was required to fill his Form showing category sub-category and background etc. However, the said categorisation in the form were to be supported by Certificates which too have been prescribed. The petitioner could not produce any certificate of the District Collector establishing that he did not fall within the Creamy-layer of the Backward Class. As such the petitioner was not entitled to claim any benefit only on the ground that he as a member of the Backward Class. As regards the sub-category of Freedom Fighter is concerned, that also could not be established by the petitioner. For 'Rural' background also no Certificate was produced. Therefore, the petitioner was not found to be within the merit of the candidates who were finally selected. It has also been submitted that the allegation of the manipulation in the petitioner's Form is wholly unfounded. Thousands of students appear in the competitive examination and their application forms etc. all are processed by Computer. So there is absolutely no question of any manipulation. On this score also the claim of the petitioner is without any foundation. So also the writ petition is misconceived and is liable to be dismissed.

8. I have considered the above submissions of the learned Counsel of the parties.

9. I will first take the question of backward class. The allegation of the petitioner is without any basis. The petitioner was to have also filed Certificate of Collector that he did not fall in Creamy layer. The petitioner has not filed any Certificate in prescribed form. A responsible Officer of the Institute of Engineering and Technology, Lucknow has rebutted petitioner's allegation through his affidavit. The allegation of manipulation by the petitioner is wholly convincing. It cannot be assumed that in a prestigious Institute like Institute of Engineering and Technology, Lucknow, in respect of one candidate any one will resort to manipulative tactics. There is no motive also for the averment of manipulation in the petitioner's Form. Even in the writ petition, the petitioner has not attached any Certificate which he could have carried with him in the Counselling/Interview regarding not being of the Creamy layer.

10. The copy of the petitioner's Form which is attached alongwith the Counter-affidavit, when taken into consideration, leaves no doubt that what had been

claimed by the petitioner categorywise, sub-categorywise and also in respect of his rural background, could not be established. As such the prayer that is being sought in the writ petition is based on misconceived grounds. As such I am of the view that the petition lacks merit.

11. It is accordingly dismissed.

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