

Vivek Bhatnagar Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Nov-26-2008

Reported in : 2009(2)AWC1268

Judge : Vineet Saran, J.

Appellant : Vivek Bhatnagar

Respondent : State of U.P. and ors.

Advocate for Def. : Sri. R.P. Tiwari

Disposition : Petition allowed

Judgement :

Vineet Saran, J.

1. The case of the petitioner is that in the year 2004-05, the respondent-University, which is governed by the U.P. State Universities Act, invited applications for grant of admission to 'Integrated B. Tech. and M. Tech. (Biotechnology)' course of five and a half years duration. This course was besides several other courses for which admission was to be granted. The other courses were four years duration. It is the specific case of the petitioner that there was no such course of B. Tech. (Biotechnology) or M. Tech. (Biotechnology). The course for which the admission had been granted to the petitioner was course code GC-7, which was of

'Integrated B. Tech. and M. Tech. (Biotechnology)' course. Now, what has ensued is that after four years [i.e., after 8th Semester) the respondent-University is not continuing the course and after granting them B. Tech. (Biotechnology) degree, the petitioner and other such students have been told that further three semesters would not be continued. The petitioner has thus approached this Court with the prayer for a direction in the nature of mandamus commanding the respondent-University to allow the petitioner to complete the 9th, 10th and 11th Semesters of the 'Integrated B. Tech. and M. Tech. (Biotechnology)' course for which they had been granted admission.

2. I have heard learned Counsel for the petitioner as well as learned standing counsel appearing for respondent No. 1 and Sri R.P. Tiwari, learned Counsel appearing for the contesting respondent Nos. 2 and 3 (University) and have perused the record. Pleadings between the contesting parties have been exchanged and with consent of learned Counsel for the parties, this writ petition is being disposed of finally at this stage.

3. From the record, what is borne out is that the students had joined the 'Integrated B.Tech. and M. Tech. (Biotechnology)' course and not the B. Tech. (Biotechnology) course. It is true that the fees for each semester was charged separately but the course was to be completed in eleven semesters of six months each, that is in a total period of five and a half years. This position is not denied by Sri R.P. Tiwari, learned Counsel for the respondent-University. However, for discontinuing the course after four years, he relies on a clause in the brochure issued by the University for the Session 2004-05, which states that 'the University reserves the right not to start any course, if adequate number of students are not available.'

4. In the opinion of this Court, the said clause does not help the respondent-University in the facts of the present case, as undoubtedly they had granted admission to the petitioner in an 'Integrated B. Tech. and M. Tech. (Biotechnology)' course in the year 2004-05. It would not apply to a case where the course has already started. The said course was to be completed in five and a half years. By the decision, which the University has now taken, the students will

have is leave the course, with the degree of B. Tech and what Sri R.P. Tiwari states is that they are free to seek admission for the M. Tech. Course in any other college, as it is not financially viable for the University to run the course any further.

5. In my view, it is not for the University at this stage to give advice to the students to seek admission elsewhere. It is for them to fulfil their obligation by completing the course for which the petitioner had taken admission. The attitude of the University is nothing short of a callous attitude towards the students and behaving like businessmen and not as an educational institution, which has an onerous duty to impart education. It is something like a student taking admission after Class XII in a Law College (for five years course), which gives an integrated B.A. and LL.B. degree and after three years, the College closes down the LL.B. course and after giving them B.A. degree asks the students to leave and tells them to join the law course in some other college. The same would be unethical and impermissible. Once a college or University invites applications for admission to a course, they have an obligation to complete such course, or else they would be liable to compensate the students, if they are left in the lurch halfway through.

6. The only ground for discontinuing the course, as stated by Sri R.P. Tiwari, is that there are not sufficient number of students for running the M. Tech. course. First of all, it is not in dispute that there were sufficient number of students for the first four years, then it is not understood as to how less students are left for the remaining three semesters, when the admission granted to all the students was in the 'Integrated B. Tech. and M. Tech. (Biotechnology)' course of full five and half years. It is nowhere stated in the brochure or informed to the students that the students would have an option to leave the course after four years, or that the University could discontinue the course after four years, after awarding B. Tech. (Biotechnology) degree. The University would have had the right not to start the course initially in case if adequate number of students were not available. The clause relied on by the respondent-University, whereby it reserved such right not to start any course if adequate number of students were not available, would not be applicable midway when they had already started the integrated course.

7. Further, in the writ petition it has been categorically stated that after completion of four years, when the University refused to permit the petitioner and other students to continue their studies, twenty two students, who were given admission in the integrated course, made a representation to the Vice Chancellor of the Bundelkhand University that they would like to continue their studies in the integrated course. The filing of the said representation by twenty two students is not denied in the counter-affidavit and it has merely been stated that the decision to close down the course was taken much earlier.

8. Be that as it may, since the petitioner as well as other students who had taken admission in the course code GC-7, which was of 'Integrated B. Tech. and M. Tech. (Biotechnology)' course and was for a period of five and-a-half years, the action of the respondent-University in closing down the course after four years and granting only a B. Tech. (Biotechnology) degree and not 'Integrated B. Tech. and M. Tech. (Biotechnology)' degree is wholly unjustified. The students, who had taken admission for a particular course, should be allowed to continue and complete the course, and the University cannot discontinue the course without completing the full course leaving the students in a lurch in mid stream.

9. It has come on record that some of the students (although not the petitioner) had taken loan from the Bank and Financial Institutions at the time of taking admission, and the same was only on the undertaking given by the University that they were being admitted to the five and a half years integrated course and would be awarded the 'Integrated B. Tech. and M. Tech. (Biotechnology)' degree. Thus, the respondent-University cannot now go back on their commitment and rely on a general clause given in the brochure, which gave right to the University not to start a course if adequate number of students were not available. The question of adequate number of students at this stage does not arise at all as the course to which all the students had been given admission was for a period of five and a half years and it is not the case of any party that after four years any student wanted to discontinue the studies.

10. In the aforesaid facts, in my view, the petitioner has made out a clear case for grant of mandamus. It is thus directed that the respondent, Bundelkhand

University shall complete the five and-a-half years 'Integrated B. Tech. and M. Tech (Biotechnology)' course and permit the petitioner to appear in the 9th, 10th and 11th Semester examinations and on completion of such examination they would be awarded the integrated degree for which they had taken admission. It is further provided that in case if the University does not continue with the course after granting the petitioner B. Tech. Degree, that is after four years of education, the petitioner shall be entitled to be compensated for being left in the mid stream and not being permitted to complete the full course.

11. It is difficult for this Court to assess the compensation to be awarded but in a case like this where the University has acted arbitrarily in not permitting the petitioner to complete the course and after 8 semesters the petitioner is being asked to leave midway without completing the next three semesters, and considering the fact that it concerns the career of a student where he is not being permitted to continue his studies, though duly admitted in the full integrated course, in my view a compensation of Rs. 5,00,000 would be appropriate, in case if the petitioner is not permitted by the University to continue his studies in the 9th, 10th and 11th semesters of the 'Integrated B. Tech. and M. Tech. (Biotechnology)' course.

12. In the aforesaid facts, it is provided that in a case if the 9th semester is not started by January, 2009 followed by the 10th and 11th semesters, the University shall pay the aforesaid compensation of Rs. 5,00,000 to the petitioner immediately in January, 2009 itself.

This writ petition stands allowed to the extent indicated above.