

Sumit Kumar Vs. Indian School of Mines Through Director and Ors

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Court : Jharkhand

Decided On : Apr-15-2015

Appellant : Sumit Kumar

Respondent : Indian School of Mines Through Director and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(C) No. 990 of 2015
Sumit Kumar son of Umesh Kumar, resident of village Mehshi, PO & PS Kathan,
Dist. East Champaran, Bihar, 845426 Petitioner Versus

1. Indian School of Mines through Director, Indian School of Mines, Dhanbad
Internal Road, Sardar Patel Nagar, Dhanbad, Jharkhand 826004

2. Dean (academic department) Indian School of Mines, Dhanbad Internal Road,
Sardar Patel Nagar, Dhanbad, Jharkhand 826004

3. Registrar (academic department), Indian School of Mines, Dhanbad Internal
Road, Sardar Patel Nagar, Dhanbad, Jharkhand 826004

4. Assistant Registrar (Academic), Indian School of Mines, Dhanbad Internal Road,
Sardar Patel Nagar, Dhanbad, Jharkhand 826004

5. Head of Department, Mechanical Engineering (Maintenance Engg. & Tribology),
Indian School of Mines, Dhanbad Internal Road, Sardar Patel Nagar, Dhanbad,
Jharkhand 826004 ... Respondents CORAM : HON'BLE MR. JUSTICE SHREE

CHANDRASHEKHAR For the Petitioner : Ms. Sweety Topno, Advocate For the Respondents : Mr. Anoop Kumar Mehta, Advocate 05/15.04.2015 Aggrieved by order dated 02.12.2014 whereby name of the petitioner has been struck off from the Institution Roll of the Indian School of Mines, the petitioner has approached this Court.

2. The petitioner who passed Bachelor of Engineering in the year, 2012 from Visvesvaraya Technological University, Belgaum, appeared in the Indian School of Mines Entrance Examination 2014 for admission in two years' M.Tech programme. The petitioner was offered admission in M.Tech, Mechanical Engineering course vide counselling letter dated 16.06.2014 whereby, the petitioner was required to submit Migration Certificate at the time of his admission however, the petitioner did not submit his Migration Certificate in original and therefore, he undertook to submit the same by 31.10.2014. The last date for submission of certificate in original for the academic year, 2014-15 of the Indian School of Mines was 2 31.10.2014. It is stated that the last date for submitting the certificate was extended till 13.11.2014. In the meantime, the petitioner paid fee for second semester on 10.11.2014. He had earlier applied for Migration Certificate on 25.10.2014 and the Migration Certificate was issued on 05.11.2014 and sent to the college on 10.11.2014. Though the Migration Certificate was received at Indian School of Mines on 20.11.2014, on 02.12.2014 a list of 23 students including the petitioner was published whose admissions were cancelled for nonsubmission of required certificates by due date. The petitioner approached the authorities however, vide letter dated 16.01.2015, the respondent no. 4 informed that the competent authority has regretted his request for further extension for submitting the Migration Certificate.

3. Heard the learned counsel for the parties. 4. The learned counsel for the petitioner refers to letter dated 10.11.2014 of the Visvesvaraya Technological University, Belgaum and submits that, the Migration Certificate dated 05.11.2014 of the petitioner was sent to the Registrar, Indian School of Mines and it has been received on 20.11.2014 however, the name of the petitioner has been removed from the Institution Roll of the Indian School of Mines, illegally. It is further submitted that, the action of the respondents in cancelling the admission of the

petitioner is contrary to the Master of Technology (Examination Miscellaneous Provisions) Rules, 2006 of the Indian School of Mines besides, being in teeth of Article 14 of the Constitution of India in as much as, while the order removing the name of other students from the Institution Roll has been recalled, the petitioner has been discriminated by the respondent authorities. 5. Per contra, the learned counsel for the respondent I.S.M. reiterates the stand taken in the counter affidavit and submits that, the petitioner was negligent and in spite of submitting an undertaking to produce the Migration Certificate by 31.10.2014, he did not submit the same by the due date. The petitioner completed B.Tech Course in the year, 2012 itself however, he did not care to obtain the Migration Certificate immediately thereafter rather, after taking admission in the Indian School of Mines, he made application on 25.10.2014. A list of as many as, 43 students was notified on 13.11.2014 requiring them to submit the documents by due date however, they did not submit the certificates in original and therefore, by order dated 02.12.2014 their names were removed from the Institution Roll. Controverting the allegation of discrimination, the learned counsel for the respondent I.S.M. submits that, out of 43 students, only 20 students have been granted extension of time who had submitted required documents on 27.11.2014 and 28.11.2014.

6. I have carefully considered the submission of the learned counsel for the parties and perused the documents on record. 7. From the documents brought on record and in the counter affidavit filed on behalf of the respondent I.S.M I find that the only ground for which the Migration Certificate of the petitioner has not been accepted by the respondent I.S.M is that, it was issued on 05.11.2014 whereas, the petitioner had already completed his B.Tech Course in the year, 2012. In the counter affidavit it is stated; 10. That in reply to statements made in Para 11 it is stated that it is a matter of record that though the petitioner had completed his BE/B.Tech course in 2012 and was provisionally admitted to B.Tech programme on 27.06.2014 on the basis of this undertaking but the petitioner did not care to obtain his migration certificate which he could have obtained any time after July 2012 when completed the BE/B.Tech degree. The petitioner was negligent in applying for migration certificate which as per the version of the petitioner was made only on 25.10.2014 and as a result of which the migration certificate was issued on 05.11.2014 and received on 20.11.2014. 8. The learned counsel for the

respondents has relied on the counselling letter (AnnexureA) to submit that the original Migration Certificate was required to be submitted by the student at 4 the time of admission however, on repeated query from the Court neither the counsel for the respondent I.S.M nor Mr. Pramod Mathur, Deputy Registrar (Academic) or any other authority who are present in the Court are able to explain the significance of Migration Certificate satisfactorily. The learned counsel for the respondent I.S.M. has stated that, its purpose is to ensure that a student is not pursuing different courses in two different Universities simultaneously however, the learned counsel admits that there is no allegation that the petitioner is pursuing another course in another University. In the counteraffidavit also I do not find a reference of any complaint against the petitioner. From the counselling letter itself it appears that admission in M.Tech course - 2014 was offered on the basis of All India Written Test held on 11.05.2014. The Migration Certificate is not an eligibility criteria for admission in M.Tech course. The Migration Certificate does not refer to the minimum educational qualification or any other eligibility criteria in the absence of which a candidate would be ineligible for taking admission in M.Tech course. In so far as, other 20 students are concerned, the respondents have stated in paragraph no. 4 (k) of the counteraffidavit that, in respect of other students of the Sessions 201415, delay in submission of the certificate was beyond the control of the students concerned. In the instant case the delay was only attributable to the petitioner who had already completed his BE/B.Tech course from his ExUniversity in the year, 2012. However, I find that no material has been produced on record to indicate how the respondents concluded that delay on the part of other 20 students was beyond their control. AnnexureD indicates that certificate of the petitioner was received by the institute on 20.11.2014 whereas, it has been admitted by the respondents that other 20 students had submitted their certificates on 27.11.2014 and 28.11.2014. Action of the respondents in not accepting the Migration Certificate of the petitioner which was received on 5 20.11.2014 is absolutely arbitrary and illegal. The Master of Technology (Examination and Miscellaneous Provisions) Rules, 2006 does not provide cancellation of admission on the ground of non submission of Migration Certificate. 9. The contention of the learned counsel for the respondent ISM that since the admission of the petitioner was provisional and therefore, 2006 Rules would not be applicable in his case, is

liable to be rejected. I am of the opinion that a candidate who has qualified the qualifying examination and who possesses the minimum qualification for admission, after his admission in the ISM can be dealt with only in accordance with 2006 Rules and not otherwise. Though in another context, I find that there is a provision for imposing heavy fine on the defaulting candidates and it was open to the respondentInstitute to withhold the degree of the student even after the student completes the course successfully, deletion of the name of the petitioner from the Institution Roll for the reasons disclosed in the counteraffidavit, is absolutely arbitrary and illegal. In the 2006 Rules, there is a provision for Special Examination for which a student is required to have 60% attendance. In the present case since, the name of the petitioner was illegally removed from the Institution Roll on 02.12.2014, the petitioner was debarred from the attending the second semester classes. The 2006 Rules provides that the Institute would require a student to attend additional classes or complete assignment in lieu of shortage in attendance.

10. The learned counsel for the respondents has referred to the chart produced in the supplementary counteraffidavit dated 13.04.2015 to submit that in the meeting of the Dean's Committee dated 28.11.2014 it was decided to accept the certificate provided, it is issued before 31.10.2014 and the certificate was issued for the academic year, 201314 and not before that whereas, the certificate of the petitioner was issued after 31.10.2014 and it was issued for the academic year 201112. The submission raised on behalf of the 6 respondentI.S.M. is devoid of merits. A student who has completed B.Tech course in the year, 2012 cannot produce a certificate for the academic year, 201314. There may be variety of reasons for which a student may not have pursued study for one or two years. The Respondents cannot insist upon producing a certificate which was issued for the academic year, 201314 only. It was not a conditionprecedent for admission in M.Tech course that there should not be an academic break in the career of a student. The condition that the document must be issued on or before 31.10.2014 also militates against logic. The respondents have failed to indicate the rational for accepting document issued before 31.10.2014 only and not after the said date. The fact that the petitioner applied for Migration Certificate on 25.10.2014 is insignificance. The respondents cannot remove the name of a student from the Institution Roll because the student was negligent in obtaining a copy of the

certificate. During the course of argument, the learned counsel for the respondent I.S.M. submitted that, after all what could be the date by which the institute could have accepted certificate from a student. I am of the view that this is not the issue in the present proceeding rather, the issue is whether the refusal to accept the Migration Certificate dated 05.11.2014 which was received in the office of the respondents on 20.11.2014 is justified or arbitrary. From the materials produced on record I am of the definite opinion that the action on the part of the respondents in removing the name of the petitioner and other 22 students from the Institution Roll on the ground that they failed to submit Migration Certificate/Certificate by due date, is nothing but a mindless militancy with the future of the students. 11. Considering the above facts, the impugned letter dated 02.12.2014 insofar as, it relates to the petitioner is hereby quashed and it is ordered that the petitioner's name would be restored in the Institution Roll within one week. It is further ordered that the 7 respondent nos. 2 and 3 would issue necessary directions requiring the petitioner to attend additional classes and/or to complete the assignment entrusted to him. (Shree Chandrashekhar, J.) Amit/A.F.R.

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