

Prashant Kumar Singh Vs. Guru Gobind Singh Indraprastha University and Anr.

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Court : Delhi

Decided On : Jul-20-2015

Judge : Rajiv Sahai Endlaw

Appellant : Prashant Kumar Singh

Respondent : Guru Gobind Singh Indraprastha University and Anr.

Advocate for Def. : Mr. Saradhananda Mohapatra, Mr. Sunil Kumar

Advocate for Pet/Ap. : Mr. Lauv Kumar

Judgement :

\$~12 * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 832/2015 & CM No.1472/2015 (for directions) PRASHANT KUMAR SINGH Petitioner Through: Mr. Lauv Kumar, Adv. Versus GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY & ANR. Respondents Through: Mr. Saradhananda Mohapatra, Adv. for R-1. Mr. Sunil Kumar, Adv. for R-2. CORAM: HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% 20.07.2015 1. The petitioner, filed this petition in or about January, 2015, seeking a direction to the respondent No.1 Guru Gobind Singh Indraprastha University (GGSIPU) to immediately take steps to ensure Intra University Migration

of the petitioner in the present semester either to Guru Teg Bahadur Institute of Technology, Hari Nagar, or to Maharaja Surajmal Institute of Technology, Janakpuri or to Bharti Vidyapeeth College of Engineering, Paschim Vihar.

2. One Sh. Narendra Kumar, Director of Guru Premsukh Memorial College of Engineering (GPMCE), G.T. Karnal Road, Delhi was impleaded as respondent No.2 to the petition.

3. The petition was entertained and replies have been filed by the respondents No.1&2.

4. The counsels have been heard.

5. The petitioner joined the B.Tech course in GPMCE in the academic year 2013-14. After having completed the first two semesters i.e. the first year of the said course, the petitioner in or about August, 2014 applied to the GPMCE for migration and it is the case of the petitioner that GPMCE did not issue the requisite No Objection Certificate (NOC) for migration for the reason of the petitioner having not complied with the illegal demand made by the respondent No.2 on behalf of GPMCE of a sum of Rs.5,00,000/- for issuing the NOC.

6. It is not in dispute that the GPMCE has since been shut down and the students thereof have been temporarily shifted to Mahavir Swami Institute of Technology, Sonapat, Haryana. The counsel for the respondent No.1 GGSIPU states that in terms of the order dated 23 rd March, 2015 in W.P.(C) No.8094/2014 titled Aditya Sanwal Vs. Guru Gobind Singh Indraprastha University, the students of GPMCE are to be transferred to other colleges affiliated to the respondent No.1 GGSIPU, as per the vacancies therein. The counsel for the respondent No.1 GGSIPU has today in Court handed over a copy of the Notice dated 9th July, 2015 published by the respondent No.1 GGSIPU in this regard and also notifying the students that the detailed schedule will be notified after declaration of result of end-term examination held in May-June, 2015.

7. The petitioner, by now, has completed the fourth semester of the second year and is to go to the fifth semester of the B.Tech. course.

8. It is not in dispute that as per the Rules, migration is permissible only immediately after the second semester and not after the fourth semester.

9. The counsel for the petitioner however contends that since the petitioner was wrongly denied migration by the respondent No.2 and is not at fault, the respondent No.1 GGSIPU be directed to allow the petitioner to migrate at this stage, though not permitted by the Rules.

10. The counsel for the respondent No.2 has drawn attention to the application submitted by the petitioner for migration and Ordinance 7 of the respondent No.1 GGSIPU in this regard. It is contended that migration is permissible only subject to the existence of a vacancy in the college to which the student intends to migrate; however the petitioner in the application had neither given any particulars of the college to which he was seeking migration nor stated that there was any vacancy in that college. It is yet further contended that there was no change in the circumstances of the petitioner, from the date when the petitioner had obtained admission and the petitioner had thus not shown any cause for seeking migration. With respect to the demand of Rs.5,00,000/- made from the petitioner, it is stated that GPMCE is / was a self-financing college and upon a student first occupying a seat in the college and leaving midway, the college suffers and thus the demand made from the petitioner was justified.

11. The counsel for the respondent No.1 GGSIPU on enquiry as to whether such demand was justified, has drawn attention to Shivam Jasra Vs. Guru Gobind Singh Indraprastha University MANU/DE/3358/2013 to support the view that a self-financing institute can make such a demand for granting the NOC.

12. The counsel for the petitioner contends that while the fee for the remaining three years was to be of about Rs.4,00,000/- only, Rs.5,00,000/demanded from the petitioner was in excess thereof.

13. Since migration is permitted only in the third semester, it has also been enquired from the counsel for the petitioner as to why this petition was filed only after the petitioner had moved from the third to the fourth semester.

14. The counsel for the petitioner responds stating that the petitioner had filed a complaint with the University and filed this petition only when no action thereon was taken.

15. The counsel for the respondent No.1 GGSIPU states that the petitioner, pursuant to the notice aforesaid dated 9th July, 2015, would have to participate in the counselling which will be held by different colleges and would be shifted to the college in which he is selected in counselling.

16. The petitioner however does not want to go to any other college on the basis of such shifting, but on the basis of migration which he sought earlier and which according to him was wrongly denied to him. Clause 3 of Ordinance 7, empowering the Administrative Committee of respondent No.1 University to relax the Ordinance to take care of unforeseen situations is invoked.

17. In my opinion, the petitioner is not entitled to any relief in this petition, for the following reasons: (a) The petition was filed after inordinate delay and after the petitioner had crossed the stage at which migration, under the Rules and Regulations of the respondent No.1 University is permissible. The petitioner was fully aware that migration is permitted only in the third semester. The petitioner having approached this Court after he had moved from the third to the fourth semester could not have expected any relief, whatsoever may have been the reasons for the delay. (b) Now, the petitioner having crossed the stage at which migration can be permitted, the same cannot be directed. (c) No migration, contrary to the Rules and Regulations of the respondent No.1 University can be permitted. This Court recently in *Vaibhav Bhansali Vs. University of Delhi* MANU/DE/2017/2015, on a conspectus of earlier judgments in this respect, has reiterated that, there is no inherent right for a student to migrate from one college to another and that once a student has taken admission in a college, it is expected that he / she would continue to undertake the course in the said college; a student may seek migration, if there be reason for doing so; the college from which migration is sought has a discretion whether to forward or not to forward such an application to University; the welfare of the student as well as the institution are the guiding factors. (d) No illegality is found in the demand of the GPMCE through the

respondent No.2 of the balance fee which the petitioner was to pay for completing the course in that college. I rather find from Kiranjot Vs. State of Punjab MANU/PH/0837/2015 that a rule / notification to that effect has been made in that State. As far as the argument, of the demand being in excess of the balance fee due, is concerned, the same is made as an afterthought and has no basis in the pleadings. (e) The purpose of the petitioner, in any case is now being served owing to GPMCE having shut down. The petitioner, if qualifies on merit, has opportunity to shift to a college near his home, if vacancy exists therein. The counsel for petitioner, inspite of enquiry, could not explain what difference it will make, whether the petitioner is so shifted or migrates.

18. The petition is dismissed. No costs. RAJIV SAHAI ENDLAW, J.

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