

Pawan Kumar. Vs State of U.P. and Others.

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Court : Allahabad

Decided On : Jun-25-2010

Judge : Arun Tandon, J.

Acts : [University Grants Commission Act, 1956](#) - Section 26 ;

Appeal No. : WRIT - C No. - 36762 of 2010.

Appellant : Pawan Kumar.

Respondent : State of U.P. and Others.

Advocate for Def. : C.S.C. ; Anurag Khanna ; Ritvik Upadhyay, Adv.

Advocate for Pet/Ap. : Dr. Neel Kamal, Adv.

Judgement :

1. The petitioners, who had submitted applications for registration for the Ph.D Course in the Chaudhary Charan Singh University, Meerut (hereinafter referred to as the 'University') and had been registered in August, 2009, on the basis of the meeting of the Research Degree Committee held after 11th July, 2009 have filed this petition for setting aside the advertisement issued by the University which requires that such candidates who were registered for Ph. D. Course as per the Research Degree Committee meeting held on 11th July, 2009, shall have to qualify the Research Eligibility Test for their registration to Ph.D. Degree to be held on 11th April, 2010.

2. It is stated in the writ petition that in accordance with the Ordinances framed by the University, the petitioners had submitted the application forms for registration and the Research Degree Committee which met after 11th July, 2009 registered the petitioners but now the University has issued the advertisement in view of the UGC (Minimum Standards and Procedure For Awards of M.Phil/PH.D Degree), Regulation, 2009 (hereinafter referred to as the 'Regulations') issued by the University Grants Commission under Section 26 of the University Grants Commission, Act 1956. These Regulations came into effect from the date of publication in the Gazette of India i.e. 11th July, 2009.

3. It appears that since the registration of the petitioners was not done in accordance with the aforesaid Regulations, the University issued the advertisement stating that all those candidates whose Research Degree Committee was held after 11th July, 2009 shall have to qualify the Research Eligibility Test for their registration. to Ph.D Degree.

4. Learned counsel for the petitioners submitted that as the petitioners had been registered in accordance with the Ordinances of the University which have not been amended till date, and as the petitioners have worked for more than 6 months and have submitted their six months progress report in accordance with the provisions of the Ordinances, the University is not justified in insisting that they should also appear at the Research Eligibility Test.

5. Sri Anurag Khanna, learned counsel appearing for the respondent- University submits that the Regulations clearly provide certain benefits to the students who are registered in accordance with the provisions of the Regulations and if the petitioners continue with the Research without appearing at the test which is being held in accordance with the provisions of the Regulations, the said benefits will not accrue to them. He, therefore, submits that it is for the petitioners to take a decision whether they wish to continue with their Research without appearing at the Entrance Test. He, however, is not in a position to state whether the University has amended the Ordinances or not.

6. Sri Ritvik Upadhyaya, learned counsel appearing for the University Grants Commission states that some more time may be granted to the University Grants

Commission to file the counter affidavit. He has, however, submitted that the aforesaid Regulations of the University Grants Commission are binding on the University and in this connection has placed reliance upon the decision of the Supreme Court in *Annamalai University, represented by the Registrar v. Secretary to Government, Information and Tourism Department & Ors.*, reported in 2009 (4) SCC 590.

7. It is necessary to get the version of the University Grants Commission before the matter is finally heard, but the University Grants Commission has not filed its counter affidavit. The interim protection, which the petitioners have prayed for at this stage is that they may not be restrained by the University from continuing with their research work. As stated by Sri Anurag Khanna, learned Standing Counsel for the University, it is for the petitioners to decide whether they desire to appear to at the test to be held by the University pursuant to the Regulations framed by the University Grants Commission. In such circumstances, the University shall not restrain the petitioners from continuing with their Research work merely because they have not appeared at the Entrance Test or after appearing at the test have not been able to clear it. This order shall be subject to the decision of the writ petition and shall not confer any right upon the petitioners. Counter affidavit by the University Grants Commission may be filed within two weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

8. List this petition for admission/hearing in the week commencing 19th July, 2010 along with the connected writ petitions.

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