

(2010) 04 AHC CK 0310

Allahabad High Court

Case No: C.M.W.P. No. 67262 of 2006

Nand Kishore Rathore

APPELLANT

Vs

Registrar, Meerut Institute of
Engineering and Technology and
Others

RESPONDENT

Date of Decision: April 26, 2010

Citation: (2011) 3 AWC 2493

Hon'ble Judges: Kant Tripathi, J

Bench: Single Bench

Final Decision: Partly Allowed

Judgement

Shri Kant Tripathi, J.

Heard the learned Counsel for the Petitioner and the Respondents No. 1 to 3 and the learned standing counsel for Respondent No. 4 and perused record.

2. By means of this writ petition, the Petitioner has prayed for issue of a writ of certiorari for quashing the order dated 28.11.2006 (Annexure-1 to the writ petition) passed by the Respondent No. 2 and also prayed for issue of a writ of mandamus commanding the Respondents to permit the Petitioner for appearing in the final semester examination of B. Pharma conducted by the Meerut Institute of Engineering and Technology, Meerut (in short "the institute"). It has also been prayed that the Respondents be directed to decide the Petitioner's pending representation.

3. It is not in dispute that the Petitioner took admission in the Institute in the academic session 2003-04 for the B. Pharma course, which was of four year and was to conclude in the end of academic session 2006-07 and deposited Rs. 35,000 as tuition fee for the academic session 2003-2004 on 20.7.2003 at the time of taking admission. For the next academic session 2004-2005, the Petitioner again deposited tuition fee of Rs. 35.000 on 2.8.2004.

4. It appears that in the academic Session 2004-2005 a dispute arose regarding the quantum of the tuition fee between the Petitioner and the Institute, consequently, the Petitioner filed Writ Petition No. 43861 of 2005. which was disposed of on 27th May, 2005 with the following directions:

Heard Sri Raj Kumar, advocate on behalf of the Petitioner, Sri Anurag Khanna, advocate on behalf of Respondent No. 4.

Petitioner Nand Kishore Rathaur, has been admitted in Meerut Institute of Engineering and Technology, Meerut in B. Pharma Course. By means of the notice dated 18th March, 2005 issued by the Director of Meerut Institute of Engineering and Technology, Meerut, all the students of the said Institute have been directed to pay balance amount of fee as per the instructions issued by the University, which have been so notified.

Learned Counsel for the Petitioner submits that the Petitioner has paid all fee and in that regard he has made several representations before the Institute of Engineering and Technology, Meerut against the amount, which is now demanded. Petitioner further submits that the said representations of the Petitioner has yet not been considered. Hence, the present writ petition.

In the facts and circumstances of the case, it is provided that the Director, Institute of Engineering and Technology, Meerut shall consider and decide the representation made by the Petitioner dated 20th April, 2005, within two weeks from the date a certified copy of this is order is produced before the Director. The Director, Institute of Engineering and Technology, Meerut shall pass a reasoned speaking order strictly in accordance with law.

For a period of two weeks from today No. adverse action shall be taken against the Petitioner.

With the aforesaid direction the writ petition is disposed of finally.

5. In compliance of the aforesaid order, the Petitioner submitted representation dated 10.9.2005 (Annexure-8 to the writ petition) but it is not clear as to what order was passed on the representation.

6. For the third academic session 2005-2006, the Petitioner again deposited tuition fee @ Rs. 35,000 on 2.12.2005. It appears that a dispute again arose between the Petitioner and the Institute regarding the tuition fee after its deposit by the Petitioner on 2.12.2005, consequently, the Petitioner filed another Writ Petition No. 76867 of 2005, which was disposed of on 19th December, 2005 with the following directions:

Petitioner submits that unnecessarily demand is being made by Director, Institute of Engineering and Technology, Meerut. In this regard he has already represented the matter on 10.11.2005, same is not being addressed and unnecessarily is being

harassed and victimized.

In this way of the fact, as in the past directives had already been issued on 27.5.2005 to look into the grievance of the Petitioner, as such it is hereby directed that Director, Institute of Engineering and Technology, Meerut shall proceed to decide the representation dated 10.11.2005 so made by the Petitioner by means of reasoned and speaking order, preferably within period of three weeks from the date of production of certified copy of this order. Whatever decision is taken on the same, same be communicated to the Petitioner.

With these observations, writ petition is disposed of.

7. The Institute appears to have served the order, dated 28.11.2006 (Annexure-I to the writ petition) on the Petitioner calling upon him to pay the balance tuition fee calculated @ Rs. 48,500 per academic session after providing adjustment of the fee already paid. But the Petitioner failed to pay the same, consequently, the Petitioner was not permitted to appear in the final semester examination. Therefore, he filed the instant petition.

8. It would be pertinent to mention that by an interim order dated 8.12.2006, the Petitioner was permitted to appear in the final semester examination on deposit of Rs. 35,000 as tuition fee by 11.12.2006 and was further permitted to deposit the balance fee in two equal monthly instalments thereafter. Accordingly, the Petitioner appeared in the final semester examination but his result has yet not been declared.

9. So far as the relief No. 2 commanding the Respondents to permit the Petitioner for appearing in the final semester examination of the B. Pharma course is concerned, it has now become in fructuous, in view of the fact that the Petitioner has already appeared in the final semester examination in pursuance of the aforesaid interim order dated 8.12.2006.

10. Learned Counsel for the Petitioner submitted that the Petitioner's result has not yet been declared by the Institute and as such a direction be issued to the Institute to declare the Petitioner's result. Learned Counsel for the Institute on the other hand submitted that the Petitioner is not entitled to any relief due to the reason that the requisite tuition fee is still outstanding against him and he failed to deposit the same in instalments as directed by this Court vide the interim order dated 8.12.2006. Since the Petitioner is a defaulter in depositing the tuition fee and as such the Institute is fully justified in withholding the result of the Petitioner.

11. The learned Counsel for the Petitioner, in reply, submitted that the tuition fee was payable @ Rs. 35,000 per academic session, which the Petitioner has already deposited and the demand of tuition fee @ Rs. 48,500 per academic session is wholly unjustified and as such withholding of the Petitioner's result is not only arbitrary but also unjustified. In this connection it may be mentioned that the relief No. 1 for quashing the order dated 28.11.2006 also depends upon the decision of

the matter relating to the quantum of tuition fee payable by the Petitioner. The question which is involved in this writ petition for decision is as to what amount of tuition fee was payable by the Petitioner in each academic session for the B. Pharma course.

12. A Committee headed by Hon"ble Mr. Justice P.K. Sarin, a retired Judge, was constituted to determine the fee structure, which has submitted its report according to which the fee for the B. Pharma course for the academic session 2004-2005 was payable to the extent of Rs. 45,100. The Committee has not determined any fee in regard to the academic session 2003-2004.

13. The learned Counsel for the Institute submitted that there was a G.O. of the year 1998 in regard to the fee structure but surprisingly the fee was also not being charged in accordance with that G.O. The amount of fee determined by the G.O. was Rs. 68,000 per annum but the Petitioner was required by the Institute to deposit Rs. 35,000 as tuition fee and deposited the same for the academic session 2003-2004. The learned Counsel for the Institute further submitted that by the letter dated 11.10.2004. the Institute was required to charge fee according to the average of the fee of free seat and paid seat subject to the decision of the Committee. Therefore, the Petitioner was required to pay the fee as per the letter dated 11.10.2004 of the University.

14. In my opinion, the Committee has not altered the fee already charged for the academic session 2003-2004 and recommended the modification of the fee for the academic session 2004-2005, therefore, the letter dated 11.10.2004 has No. relevance in view of the fact that the Institute itself accepted the tuition fee for the academic session 2003-2004 @ Rs. 35,000 and remained silent throughout the year. Therefore, the Institute cannot be permitted to increase the tuition fee for the first year after close of the session. Whatever, dispute arose that was for the academic session 2004-2005 and onwards and the Institute is fully justified in asking the Petitioner to pay the tuition fee at the rate determined by the Committee, which is to the extent of Rs. 45,100 per academic session.

15. The petition deserves to be partly allowed.

16. The petition is, accordingly, partly allowed. The notice dated 28th November, 2006 (Annexure-1 to the petition) is quashed. The Respondent Nos. 1 and 2 are directed not to charge any additional fee from the Petitioner for the academic session 2003-2004 and must feel satisfied with the amount already deposited by the Petitioner. In regard to the subsequent academic sessions from the year 2004-2005, the Respondents are directed to re-calculate the fee payable by the Petitioner at the rate determined by the aforesaid Committee (Rs. 45,100 per academic session) and after providing adjustment of the tuition fee already paid by the Petitioner, serve him a fresh notice regarding the balance amount, which shall be paid by the Petitioner without any further objection within two months from the date of service

of the revised notice. On payment of the balance amount and fee, as per this order, the Respondents shall declare the Petitioner's result "and issue mark sheet and degree etc. to the Petitioner without any further delay.