

(2018) 11 UK CK 0238

Uttarakhand High Court

Case No: Writ Petition (M/S) No. 2019 Of 2018

Miss Pooja Joshi

APPELLANT

Vs

State Of Uttarakhand
& Others

RESPONDENT

Date of Decision: Nov. 28, 2018

Hon'ble Judges: Sudhanshu Dhulia, J

Bench: Single Bench

Advocate: Devesh Upreti, Yogesh Pandey

Final Decision: Partly Allowed

Judgement

Sudhanshu Dhulia, J.

1. The petitioner competed for selection in a course which was a two years course in elementary education in the State of Uttarakhand known as

Diploma in Elementary Education (in short "D.El.Ed."). This course is conducted in District Centre known as "District Institute of Education

Training" (in short "DIET"). The District Centre with which we are presently concerned is DIET Bheemtal, District Nainital.

2. The petitioner was one of the successful candidates who was granted admission for the year 2014-16 (as the course was for two years, spread

over for four semesters) as a general woman candidate. After completing the two semesters, in the year 2015 the petitioner suddenly started having

bouts of epilepsy and she was diagnosed with "Epilepsia Partialis Continua". Thereafter, she remained admitted in Vimhans Primamed Hospital

at Delhi from 16.03.2016 to 30.03.2016, of which a copy is being annexed by the petitioner as Annexure No.5 to the writ petition. She also remained

admitted in All India Institute of Medical Sciences, New Delhi from 30.03.2016 to 08.07.2016 and for certain period she also remained in Intensive Care Unit. Now the petitioner after being cured moved an application before the respondent authorities in the year 2017 stating therein that due to unfortunate circumstances and her health not permitting her to continue her studies, she could not complete the course of third and fourth semesters and she be permitted to complete the course of third and fourth semesters for the batch of 2017-19. The Additional Director, SCERT, Uttarakhand Dehradun earlier granted this permission to the petitioner vide order dated 28.07.2017. Thereafter, without giving an opportunity of hearing to the petitioner, the said order was recalled by him vide order dated 04.01.2018. Aggrieved, the petitioner has filed the present writ petition before this Court.

3. In the counter affidavit, the stand taken by the respondents is that under Rule 4 of the Diploma in Elementary Education Curriculum, such a permission can be granted to a person for only one semester and the petitioner had sought permission for two semesters i.e. for 3rd and 4th semesters respectively.

4. Rule 4 of the Diploma in Elementary Education Curriculum reads as under:-

“Such trainees who have less than the required percentage of attendance will be allowed to re-register in the same semester again, but only after two years of D.El.Ed., period has come to an end. However, this benefit would be available only for one semester throughout the entire programme.”

5. The aforesaid Rule can have both a narrow as well a broader meaning. Narrow meaning would be as contended by the learned State Counsel

which in case there is nil attendance of a candidate, permission can be granted for only one semester only, and here in this the actual permission was

for two semesters i.e. 3rd and 4th. All the same, there is another interpretation which would be a purposive interpretation, in view of the special

circumstances and the misfortune which has befallen upon the petitioner, which is that the permission is actually being sought by the petitioner for one

semester i.e. for third semester. Whether she is ultimately granted permission for the fourth semester would depend upon her result in the third

semester and her performance therein. Permission for fourth semester will only be granted to the petitioner in case she clears third semester.

6. In view of the above, the writ petition is partly allowed. The order dated 04.01.2018 is set aside. Let the petitioner be permitted to appear as a

candidate in the next third semester of D.El.Ed., course at Bheemtal, District Nainital. Subject to her qualifying in the third semester, she shall also be

permitted to appear in the fourth semester.

7. At this stage, learned counsel for the petitioner submits that respondents should not take fee from the petitioner for third and fourth semesters as

she has already deposited the same. In case, the petitioner submits a proof of this, the fee shall not be taken from the petitioner for third and fourth

semesters. However, petitioner shall give other fees, such as, registration fee, etc as per the Rules.

8. Let a certified copy of this order be given within a period of forty-eight hours on payment of usual charges.