

**Court No. - 21**

**Case :-** SPECIAL APPEAL No. - 937 of 2024

**Appellant :-** Ajay Kumar Pandey

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Appellant :-** Km. Anjana, Sarveshwari Prasad

**Counsel for Respondent :-** C.S.C., Grijesh Tiwari, Nitin Chandra Mishra

**Hon'ble Manoj Kumar Gupta, J.**

**Hon'ble Vikas Budhwar, J.**

(Per: Hon'ble Vikas Budhwar, J.)

1. This intra-court appeal is against the judgment and order of the learned Single Judge dated 28.08.2024 passed in Writ-C No. 33767 of 2022, whereby the writ petition preferred by the appellant-writ petitioner challenging the orders dated 01.11.2021 and 04.01.2021 of the Registrar, Deen Dalay Upadhyay Gorakhpur University, Gorakhpur, second respondent and Executive Examination Controller, Deen Dayal Upadhyay Gorakhpur University, Gorakhpur, third respondent was dismissed.

2. The case of the appellant before the writ court was that there happens to be an institution by the name of Prabha Devi Bhagwati Prasad Vidhi Mahavidhayalay, Anantpur, Harpur-Budhahat, Gorakhpur, fourth respondent (in short 'Law College') affiliated to Deen Dayal Upadhyay Gorakhpur University, Gorakhpur (in short 'University').

3. A notification came to be published by the University on 15.10.2019 for the grant of admission in LLB three years course for the academic session 2019-20. As per the notification, the last date for submission of the application form was 23.10.2019. According to the appellant-writ petitioner in order to secure admission, the relevant documents were to be submitted before the Law College and therefrom, the same were to be transmitted to the University. As per the appellant-writ petitioner the required documents was though submitted before the last date i.e. 23.10.2019 before the Law College

but the same stood transmitted to the University on 10.06.2020. Thereafter, an online examination form came to be issued. The appellant writ petitioner was accorded admission and he was allowed to appear in the first semester examination of the LLB course for the year 2019-20 and the results were declared on 26.05.2020. Since the marks for LLB first semester examination 2020 were not awarded as per the expectation of the appellant-writ petitioner so he preferred **Writ-C No. 20136 of 2020** in which on 08.12.2020, the following orders were passed.-

“This writ petition has been filed for the following relief;

"(i) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents to produce the answer-sheet of LLB 1st Semester Exam 2020 reevaluate the same within stipulated period as fixed by this Hon'ble Court."

Counsel for the petitioner submits that marks given to the petitioner in LLB 1st Semester Examination are far less than expectation of the petitioner. He further states that the petitioner has not applied for and has not been given a copy of the said examination.

Considering the facts and circumstances of the case, the petitioner is granted liberty to apply for giving copies of LLB 1st Semester Examination for which the petitioner may submit requisite fee with the respondent-University.

Sri Rohit Pandey, Advocate appears on behalf of Respondents No. 2 and 3 and assured this Court that in case the petitioner approached the University by filing any such application, the same shall be supplied to the petitioner within a period of three weeks from the date of moving the application.

The writ petition is disposed of with liberty above so granted.”

4. It is also the case of the appellant-writ petitioner that the answer sheets of the appellant writ petitioner was re-evaluated and with respect to paper No. 146 the marks stood enhanced from 36 to 42. As per the appellant-writ petitioner though he was entitled to appear in the second semester viva voce examination which was scheduled on 24.01.2021 but he was not allowed to appear. The same led to filing of representation on 24.01.2021 and 25.01.2021 and thereafter, Writ-C No. 5242 of 2021 which was entertained by this Court while seeking response from the respondents herein. Thereafter, a counter affidavit

came to be filed by the University coming up with a stand that consequent to the holding of the inquiry by a committee constituted by the University by order dated 20.12.2020 a report came to be submitted on 01.01.2021 holding that the admissions accorded to 55 students including the appellant-writ petitioner was illegal since the writ petitioner along with the 54 others were not eligible to be accorded admission as according to the brochure for P.G. Entrance examination-2019 (academic session 2019-20) a student in order to be eligible should possess the graduation degree relatable to the academic session 2016 or thereafter and since the appellant-writ petitioner did its graduation in the year 2008, thus, he was not eligible to be accorded admission. Thereafter, on the basis of the report of the committee dated 01.01.2021 the University took a decision to cancel the admission of the appellant-writ petitioner along with 54 candidates on 04.01.2021.

5. Questioning the said orders, the appellant-writ petitioner preferred **Writ-C No. 33767 of 2022 (Ajay Kumar Pandey Vs. State of U.P. & Others)** which post exchange of affidavits came to be dismissed on 28.08.2024 while observing as under:-

“12. In view of the above, as the Rules for admission for LLB is not challenged, so this Court would rely upon the same and there is no illegality in the order passed by the authorities cancelling the admission of the petitioner. Hence the writ petition is devoid of merit and is accordingly dismissed.

13. At this stage, learned counsel for the petitioner has submitted that for the fault of the college that the respondent No.4 who had given admission to the petitioner against the rules and wasted an year of the petitioner who shall be liable for the same.

14. The learned counsel for the respondent no.4 has submitted that it is the petitioner who is responsible as he had shown himself to have graduated in the year 2015 whereas it was in the year 2008. So it was the petitioner who mislead the college for taking admission in the LLB course. None the less, the college i.e. respondent No.4 would also be accountable to have granted admission to the petitioner even though the petitioner had placed the mark-sheet of having graduated on the record. The college should have also taken note of the same. In such circumstances the equity demands that the petitioner may not financially suffered, therefore, the college is directed to pay a sum of Rs.30,000/- to the

petitioner which includes the amount of Rs.6000/- deposited as fee by the petitioner within a period of four weeks from today.”

6. Assailing the order of the learned Single Judge, the present appeal has been preferred.

7. Km. Anjana, learned counsel for the appellant has sought to argue that the judgment and order of the learned Single Judge cannot be sustained for a single moment as the learned Single Judge has misconstrued the entire controversy and has adopted an incorrect approach. Elaborating the said submission, it has been argued that it was only on account of the fault of the Law College which created such a situation, as the appellant-writ petitioner had completed all the formalities as prescribed therein and also submitted the entire documents with the Law College and as per the admission procedure, it is the Law College which corresponded with the University in question and not only this the appellant-writ petitioner was accorded admission in LLB first year for the academic session 2019-20 and he also was declared successful in LLB in the first semester examination in LLB course. However, owing to awarding of less marks, a writ petition also came to be preferred by the appellant-writ petitioner, Writ-C No. 20136 of 2020 which came to be disposed of on 08.11.2020 requiring the University to do the needful and thereafter marks stood re-evaluated to the betterment of the appellant-writ petitioner while enhancing them from 36 to 42 in paper No. 146.

8. Submission is that though as per clause 5 of the brochure published by the University for the grant of admissions for the academic session 2019-20, a student was required to possess graduation degree of the year 2016 or onwards but mere possession of graduation degree of the year 2008 would not be of any detriment particularly when the appellant-writ petitioner was allowed to pursue the first semester of LLB three years programme.

9. In a nutshell the submission is that on account of the fault of the Law College the entire academic career of the appellant-writ petitioner has been jeopardized and looking into the fact that the appellant-writ petitioner is a meritorious student and there is nothing adverse against him, the learned Single Judge erred in not allowing the writ petition while setting aside the orders impugned before it. It is, thus, prayed that the order of the learned Single Judge as well as the decision of the University be set aside and the writ petitioner be permitted to pursue the second semester of the LLB three years programme.

10. Countering the submission of the learned counsel for appellant-writ petitioner, Sri Nitin Chandra Mishra who appears for the respondent University and Sri Grijesh Tiwari who appears for the Law College have submitted that the order of the learned Single Judge needs no interference in the present proceedings. It is contended that the appellant-writ petitioner right from the very inception was conversant with the terms and conditions specified in the Brochure for the admissions of the LLB three years course which required possession of the degree of graduation for the year 2016 or onwards for the academic session 2019-20 but, the appellant-writ petitioner made interpolations and projected that he had obtained graduation in the year 2015 despite the fact that he was a graduate of the year 2008 and procured an admission. Submission is that the conduct of the appellant-writ petitioner disentitles him of any relief particularly when on account of the fault of the appellant-writ petitioner neither the Law College nor the university can be said to be at any fault.

11. Sri Rajiv Gupta, learned Additional Chief Standing Counsel has adopted the submission of the learned counsel for the University and the Law College.

12. We have heard the learned counsel for the parties and perused the record.

13. Facts are not in issue. It is not in issue that the University issued a notification on 15.10.2019 for submitting online examination form for admission in three years LLB programme for the academic session 2019-20, last date whereof was 23.10.2019. It is also not in dispute that the Brochure came to be published by the University setting out the modalities according to which the admissions are to be accorded of the LLB three years course for the academic session 2019-20. Parties are in agreement that clause 5 of the brochure in question stipulated that with regard to eligibility for being accorded admission in the LLB three years course for the academic year 2019-20 a students should have a graduation degree of the year 2016 or onwards. Apparently, the appellant-writ petitioner possesses graduation degree of the year 2008 though he has projected in his application form that the same was of the year 2015.

14. The bone of contention between the parties is as to who is at fault. On a pointed query being raised to the learned counsel for the Law College, Sri Grijesh Tiwari has made a statement that as per the procedure set out therein the entire documents including the testimonials are to be submitted by a student to the Law College and thereafter the records are transmitted to the University. It has also come on record that as many as 55 students' admissions stood cancelled. Interestingly, in the present case in hand the appellant-writ petitioner was accorded admission in the first semester of the LLB three year course, however, he was not allowed to appear in the LLB second year examination. Records further reveal that the University had constituted a committee with regard to the illegalities committed in the admission of the students in the Law College relatable to LLB three years course of the academic session 2019-20 whereafter, it revealed that not only the appellant-writ petitioner but also other students were illegally accorded admissions. Learned Single Judge on a challenge raised to the decision of the University in the writ petition

proceeded to pass a detailed order on 29.04.2024 which reads as under:-

“1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondent No. 1, Mr. Nitin Chandra Mishra, learned counsel appearing for the Respondents No. 2 & 3 and Mr. V.K. Singh learned Senior Advocate assisted by Mr. Grijesh Tiwari, learned counsel appearing for the Respondent No. 4.

2. It has been contended on behalf of the petitioner that 120 students were allowed admission in L.L.B. three year course for the academic session 2019-20 in Prabha Devi Bhagwati Prasad, Vidhi Mahavidyalaya, Anantpur, Gorakhpur. The students continued to pursue their studies, they appeared in the examinations of the first semester and later on they were given admission in the second semester course but before the examinations of the second semester, Examination Controller of the University wrote a letter on 01.10.2020 whereby principal of the institution was directed to take decision in respect of admissions of 55 students as University has found that the said admissions are against the provisions made in the brochure issued for the purposes of admission. After the aforesaid letter was issued by the University, Respondent No. 4 issued notice to the 55 students and thereafter has cancelled admissions of 52 students.

3. This court finds that brochure issued by the University for admission in L.L.B. course categorically provided that only those students will be given admission in L.L.B. three year course who have passed out their graduation examination after 2015. The Respondent No. 4, out of the total 120 students, allowed admissions of 55 students who have completed their graduation prior to the year 2015.

4. Learned counsel appearing for the petitioner has argued that a bare perusal of the provisions made in the brochure for admission, it is patently manifest that there is categorical provision that students will be given admission in L.L.B. three year course only after due verification of their original testimonials.

5. Prima facie this court is of the view that such a large number of illegal admissions could not have been made by the college authorities without their involvement. It also appears to the court that University had just done the formality and once the college authorities have cancelled the admissions no further action has been taken by the University in the matter. Even this is also apparent from the record that no serious inquiry on the part of the University was conducted in the matter to ascertain, as to what was the role of the college authorities in grant of illegal admissions to 55 students out of the total 120 students.

6. Since it is the matter of career of the students, it cannot be handled with reluctance rather it is obligatory on the University to hold a full fledged inquiry in the matter and to ascertain, as to who was responsible for these 55 illegal admissions.



7. Accordingly, keeping this writ petition pending, as an interim measure this court directs the Registrar of the Deen Dayal Upadhyay University, Gorakhpur to hold an inquiry in the matter and to ascertain as to who are responsible for 55 illegal admissions in L.L.B. three year course and further what action is needed against the erring persons.

8. Let aforesaid inquiry be completed within a period of six weeks from today and report of inquiry be placed on record of this writ petition.

9. List this matter on 02.07.2024.”

15. Though according to the learned counsel for the appellant-writ petitioner, since, he had been accorded admission in first semester of LLB three years course, so he cannot be denied permission to appear in second semester is concerned, the same is neither here nor there particularly when appellant-writ petitioner was not eligible as he had a graduation degree of the year 2008 and not of the year 2016 or onwards. Since the conditions stipulated in clause 5 of the brochure for admission for the academic session 2019-20 for LLB three years course is not under challenge, thus, we are not required to delve into the aspect relating to the legality of the same. Thus, the relief sought for permitting the appellant-writ petitioner to appear in the second semester of LLB three years course is declined.

16. Now the next question which arises for our consideration is whether the appellant-writ petitioner has been adequately compensated or not and is entitled to enhance compensation. Interestingly, the finding of the learned Single Judge that the Law College was responsible in granting admission to the appellant-writ petitioner on the face of the fact that all the documents/testimonials was submitted by the appellant-writ petitioner and he is entitled to monetary compensation of Rs. 30,000/- has not been questioned by the Law College. We have been informed that the Law College has not preferred an appeal against the said findings and the directions and the same has attained finality. Moreover, the report of the committee dated 01.01.2021 and the decision of the University dated 04.01.2021 clearly holds that the Law College had committed illegality in



granting admission to the students. Since it has not been disputed before us and rather admitted by Sri Grijesh Tiwari, learned counsel for the Law College that the documents submitted by the respective students to the Law College are routed through the Law College to the University with its recommendation, thus, looking to the overall circumstances, it becomes highly inconceivable and improbable that the Law College was vigilant and not at fault. It is rather amazing that the Law College has acted not only in a careless and reckless manner but also exhibited a conduct other than bona fide just in order to enrol and admit students in order to charge fees playing with their future. The Chapter did not close at that juncture, however, admission was accorded to the appellant-writ petitioner for the academic session 2019-20 and he cleared the first semester on 26.05.2020. A decision cancelling admission of the appellant-writ petitioner has been taken in the month of January, 2021. As per the affidavit of the appellant-writ petitioner he is now 35 years of age.

17. Looking into the aforesaid facts and circumstances, we expressed our mind for enhancing the monetary compensation from Rs. 30,000/- to Rs. 5,00,000/- while giving an opportunity to Sri Grijesh Tiwari, learned counsel for the Law College to make his submissions in that regard.

18. Sri Grijesh Tiwari, learned counsel for the Law College could not dispute the fact that it was on account of the fault of the Law College the appellant-writ petitioner was accorded admission, however, on the question of enhancement of compensation, he only requested that the amount of Rs. 5,00,000/- to be awarded as compensation to the appellant-writ petitioner is excessive and the Law College is not in a position to make the said payment. He also apprehends that, in case, the compensation of Rs. 5,00,000/- is awarded to the appellant-writ petitioner then the remaining 54 students would approach this Court.

19. We have bestowed our consideration on the said aspect and we find that once it is admitted to the Law College that the appellant-writ petitioner had not practised fraud and he submitted all the relevant documents and was accorded admission due to the fault of the Law College then in order to compensate the appellant-writ petitioner for jeopardizing his academic career the amount of Rs. 5,00,000/- to be awarded as monetary compensation is reasonable and not excessive.

20. Accordingly, the order of the learned Single Judge insofar as it seeks to uphold the decision of the University dated 04.01.2021 negating the claim of the appellant-writ petitioner to be permitted to pursue second semester of the LLB three years programme for the academic session 2019-20 needs no interference. However, we modify the order of the learned Single Judge dated 28.08.2024 passed in Writ-C No. 33767 of 2022 while enhancing the monetary compensation from Rs. 30,000/- to Rs. 5,00,000/- which shall be paid by the Law College to the appellant-writ petitioner within a period of six weeks from today.

21. In the eventuality, the Law College does not make the said payment within the stipulated period then the same shall be recovered as arrears of land revenue and paid to the appellant-writ petitioner.

22. With the aforesaid observations, the present intra-court appeal is **disposed of**.

23. Though we have disposed of the appeal, however, an affidavit of compliance shall be filed by the Law College before the Registrar General of this High Court within six weeks.

**Order Date :- 15.10.2024**

Rajesh

(Vikas Budhwar, J.)      (Manoj Kumar Gupta, J.)