

HIGH COURT OF SIKKIM
Record of Proceedings

WP(C) No. 60 of 2016

SIKKIM STUDENTS WELFARE
ASSOCIATION OF CHANDIGARH

PETITIONERS

VERSUS

STATE OF SIKKIM AND OTHERS

RESPONDENTS

Date: 15.06.2022

CORAM: THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

For Petitioners Mr. Gulshan Lama, Advocate.

For Respondents
R-1, R-2 & R-6 Mr. S.K. Chettri, Government Advocate.

R-3 & R-9 None.

R-4 Mr. A.K. Upadhyaya, Senior Advocate.
 Mr. D.K. Siwakoti, Advocate.

R-5 None.

R-7 None.

R-8 Mr. Thinlay Dorjee Bhutia, Govt. Advocate.

ORDER

1. On the last date Learned Counsel for the parties had invited the attention of this Court to I.A. No.10/2019, dated 09-11-2019, where collective compensation had been computed for the Petitioners on account of the delay caused by the Respondent No.4 in granting them their requisite educational qualification certificates up to the year 2020 for some Petitioners and for others up to the year 2021.

2. It is submitted by Learned Counsel for the Petitioners today that the Petitioners had enrolled for the Courses between the year 2011 to 2014 and collective compensation is computed in the I.A. as follows;

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I Sl No	II Year of graduation/ completion of course	III Notional monthly income	IV Time of completion of course till present date (in months) excluding a period of three months	V Amount of Compensation to be paid to each Petitioners (III X IV)
1	2014	37,500/=	62	23,25,000/=
2	2015	37,500/=	50	18,75,000/=
3	2016	37,500/=	38	14,25,000/=
4	2017	37,500/=	26	9,75,000/=

That, he is unable to compute the compensation individually afresh.

3. It is relevant to recapitulate here that the total number of Petitioners in the instant matter was 224 (two hundred and twenty-four) [see, **Order dated 19-10-2020**]; 183 (one hundred and eighty-three) Petitioners were handed over the correct Degrees of Bachelor of Hotel Management, Travel and Tourism (BHMTT) [see, **Order dated 11-11-2020**]; 11 (eleven) students whose names were incorrectly recorded in the Degrees awarded to them were rectified and handed over to them [see, **Order dated 29-07-2021**]; 16 (sixteen) students received their Degrees in M.Sc. in Airline Tourism and Hospitality Management [M. Sc. (ATHM)] after necessary rectification; 13 (thirteen) students were also handed over rectified Degrees of B. Sc. in Airline Tourism and Hospitality Management [B. Sc. (ATHM)] [see, **Order dated 23-08-2021**]; two students who were not awarded Degrees had no grievance and filed an Affidavit in that context on 23-07-2021 [see, **Order dated 28-07-2021**].

4. It is pertinent to record that on the intervention of this Court the Petitioners have been awarded Degrees which were either not granted to them initially by

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Respondent No.4 or the name of the Petitioners were incorrectly recorded in their Degrees or the Degree itself was incorrectly recorded in some certificates.

5. It was the duty of the Respondent No.4 to have carried out their obligation to the students who they had admitted in their University, by awarding Degrees, to which they were rightfully entitled, on time, on completion of their respective Courses.

6. On the filing of this Writ Petition, the Court was constrained to intervene, in light of the injustice meted out to the students who had enrolled in the University, but even on completion of their Courses were not awarded the requisite Degrees, on nebulous grounds. Considering now that the matter has truncated with the grant of Degrees to the Petitioners, I am of the considered opinion that the compensation (*supra*) computed by the Petitioners in the I.A. (*supra*) would be unreasonable.

7. While on the aspect of compensation relevant reference is made to ***Municipal Corporation of Delhi, Delhi vs. Uphaar Tragedy Victims Association and Others***¹, where the Hon'ble Supreme Court held as follows;

"99. The law is well settled that a constitutional court can award monetary compensation against the State and its officials for its failure to safeguard fundamental rights of citizens but there is no system or method to measure the damages caused in such situations. Quite often the courts have a difficult task in determining damages in various fact situations. The yardsticks normally adopted for determining the compensation payable in private tort

¹ (2011) 14 SCC 481

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claims are not as such applicable when a constitutional court determines the compensation in cases where there is a violation of fundamental rights guaranteed to its citizens.

100. In *D.K. Basu v. State of W.B.* [(1997) SCC 1 416], a Constitution Bench of this Court held that there is no straitjacket formula for computation of damages and we find that there is no uniformity or yardstick followed in awarding damages for violation of fundamental rights. In *Rudul Sah case [Rudul Sah v. State of Bihar, (1983) 4 SCC 141]* this Court used the terminology "palliative" for measuring the damages and the formula of "ad hoc" was applied. In *Sebastian Hongray case [Sebastian M. Hongray v. Union of India, (1984) 3 SCC 82]* the expression used by this Court for determining the monetary compensation was "exemplary" costs and the formula adopted was "punitive". In *Bhim Singh case [Bhim Singh v. State of J & K, (1985) 4 SCC 677]*, the expression used by the Court was "compensation" and the method adopted was "tortious formula". In *D.K. Basu v. State of W.B.* [(1997) SCC 1 416] the expression used by this Court for determining the compensation was "monetary compensation". The formula adopted was "cost to cost" method. Courts have not, therefore, adopted a uniform criterion since no statutory formula has been laid down."

8. On the anvil of the observation hereinabove, in the circumstances of the instant case, it is hereby ordered that the Respondent No.4 pay a compensation of Rs.10,000/- (Rupees ten thousand) only, each, to the students. Although, the compensation awarded will definitely not make up for the loss of time or the opportunity that the Petitioners have lost for the purpose of pursuing higher education or for having suffered losses in the job market, it is a palliative measure for them, although perhaps punitive for Respondent No.4.

9. Learned Senior Counsel for Respondent No.4 submits that he has no instructions to make submissions in the context of compensation. He is not required to make any

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submissions on this count. Respondent No.4 is to merely ensure compliance of the Orders of this Court.

10. Writ Petition stands disposed of accordingly.

11. Pending Applications/Interlocutory Applications, if any, also stand disposed of.

Judge
15.06.2022

ds/sdl