

**Before H. P. Private Educational Institutions Regulatory Commission,
Shimla -171009.**

Case No: 15/2020

Date of Institution: 10.11.2020

Date of Decision: 04.06.2021

In the matter of :

Bharat Bhushan

.....Petitioner

Versus

Indus International University, VPO-Bathu, Tehsil-Haroli, Distt.-Una (HP)174301

.....Respondent

Orders

This order shall dispose off the complaint raised by Sh. Bharat Bhushan (herein after referred as petitioner) vide his email dated 08.10.2020 wherein he filed a complaint against Indus International University, VPO-Bathu, Tehsil-Haroli, Distt.-Una (herein after referred as respondent University) that the said university has withheld original certificates and documents i.e. 10th Marksheet, 12th Marksheet, Caste Certificate, Income Certificate, Himachali Bonafide, Aadhar Card and PNB Passbook of Sh. Sunil Kumar, S/o Sh. Roshan Lal, Village-Mokhas, Post Office-Khurwain, Tehsil-Bangana, Distt.-Una (HP) who was pursuing his BBA degree from the respondent University.

The respondent university contested the complaint by refuting the charges and taking the plea by filing its reply through email dated 13.10.2020 as follows:

“that the university does not retain original documents of the students. However, in case of students who are afforded opportunity to study, in expectation of their Government Scholarship, and are facilitated to apply for their SC/ST scholarship, the University is required to constitute a Scholarship Committee, whose nodal officers are responsible, on behalf of the students, to ensure verification of their original documents. This is a procedure mandated by the Scholarship Dept. of HP Directorate of Higher Education. The Scholarship department asks for original document verification year after year, at

various stages of Scholarship scrutiny; Several agencies are involved in the Scholarship verification, to include, Central and State authorities et, which includes physical verification of the original documents, Although, student is responsible for his/her own verification, the Scholarship department expects University to constitute a Scholarship Committee, with Nodal Officers responsible to ensure verification, on behalf of the students, at any time of their asking. Failure to do so results in cancellation of scholarship.

Sometimes, some query on a specific case/doubtful case, results in withholding of all Scholarships of other students of the entire batch.

No such documents are retained of students, who pay up their tuition fee dues.

Under these circumstances, some of the original documents of the 'Zero fee paying students', (both current/passed out students awaiting Govt. Scholarship), to respond to queries from multiple authorities on scholarship verification, so that the students get their scholarship in time, and we in turn get out tuition fee from the students, long overdue."

In the rejoinder filed by the petitioner vide its email dated 06.11.2020, the petitioner submitted that Sh. Roshal Lal, father of Sh. Sunil Kumar has been asked by the university to pay due fees for the release of documents, whereas, at the time of admission of his ward he was told **that he need not to pay any tuition fee as the student belongs to the Scheduled Cast category and the government shall pay the fees. University shall apply for the scholarship of the student from their end. They kept the bank passbook of the students as well. Later on, they are playing such tactics with rural people"**

The matter was fixed for hearing on **16.12.2020** and subsequent hearings. Therefore, the Respondent University was directed to release the original Certificates / documents of Sh. Sunil Kumar. However, the Respondent University submitted an unsatisfactory reply through e-mail dated 01.02.2021 that fees of the student is pending and therefore the Respondent University has withheld the original certificates of Sh. Sunil Kumar for more than one year. Thereafter, this Commission vide order dated **16.03.2021** directed the respondent University to release the original certificates of Sh. Sunil Kumar failing which a penalty to the tune of

Rs. 1.00 lacs shall be imposed for non-compliance. On **07.04.2021**, the respondent University in compliance to the order dated 16.03.2021 passed by this Commission submitted the original certificates / documents i.e. 10th Marksheet, 12th Marksheet, Caste Certificate, Income Certificate, Himachali Bonafide, Aadhar Card and PNB Passbook before this Commission. On **04.05.2021**, both the parties reiterated their respective stands to the Commission. Finally, after hearing the parties at length, both the parties arrived at a amicable settlement wherein it was agreed upon by them that the balance of payment of fee due on the part of Sh. Sunil Kumar to the tune of Rs. 38,000/- shall be paid to the respondent university within a period of one month. The Commission released the original certificates / documents i.e. Caste Certificate, Income Certificate, Himachali Bonafide, Aadhar Card and PNB Passbook alongwith photocopy of 10th & 12th Marksheet to Sh. Sunil Kumar. It was further directed by this Commission that the original certificates i.e. 10th and 12th marksheets of Sh. Sunil Kumar be sent to respondent university with the further directions to the respondent university that these two original documents shall be released to Sh. Sunil Kumar after receiving an amount of Rs. 38,000/- from him. However, the documents could not be collected by respondent university due to Corona Curfew w.e.f. 07.05.2021.

On dated **04.06.2021**, the matter was again listed for the compliance of order dated 04.05.2021, however, during the course of hearing, it was revealed that neither of the parties have put sincere efforts for the compliance of orders dated 04.05.2021 and are trying to linger on the issue on the one pretext or the other. Further, the emails dated 03.06.2021 was received by the Commission from the petitioner and through his emails quoted some Judgment passed by the various Hon'ble High Court and also prayed for the grant of compensation from the respondent university.

Therefore, now in view of the aforesaid and the legal position settled by various Hon'ble Court of Law, I am of the considered view that it would be inappropriate for retaining the original Certificates / Documents of Sh. Sunil Kumar for want of fee specially when the same is required by him for pursuing his further career and on the settle position of law.

The Hon'ble High Court of Kerela in its Judgment in WP (C). No. 1275 of 2017 titled Shireen M.T. Versus State of Kerela while directing the release of original documents of the petitioner has clearly observed in its para 10 of judgment. The operative portion of which is as follows:

“The agreements obtained by the College from the petitioners authorising them to withhold the certificates of the petitioners for payment of the amounts covered by the bonds, if any, executed by the petitioner cannot be accepted as an approved social conduct and the same, in that sense, is unethical. Further, agreements of that nature are against public good and public interest as well in the circumstances even assuming that the agreement bond executed by the petitioners in favour of the College authorising them to withhold their certificates is not void for want of consideration, the same is void as opposed to public policy in the light of Section 23 of the Indian Contract Act. ”

The Hon’ble High Court of Himachal Pradesh has also clearly observed in its Judgment dated 06.10.2020 passed in CWP No. 1679 of 2020 in the matter of **Twinkle Pundir & Ors. Versus State of H.P. & Ors**, the operative portion of which is as follows:

“12. But what happens when educator gets down to hand twisting and black mailing by retaining the original certificates and other documents of its students so as to ensure that their wings are clipped and they do not migrate to any other college or for that matter leave the college.”

The respondent university is emphasizing not to release the original Certificates / documents to Sh. Sunil Kumar without the realisation of outstanding fees. The spirit of the various Hon’ble High Court Judgments clearly elucidates that the original certificates / documents of the students cannot be withheld by educational institutions for any reason.

Therefore, in view of the discussion made herein above and the emails dated 03.06.2021 received by the Commission, the Commission hereby passes the following orders:

- Original documents lying with this Commission be released to Sh. Sunil Kumar under proper receipt at the earliest.
- Respondent University is directed to release all the original certificates / documents withheld in respect of all other students in accordance with law.
- Respondent University shall deposit an amount of Rs. 50,000/- as penalty in the bank account of HPPEREC within a period of one month from the date of issuance of these orders for the violation of UGC as well as directions of various Hon’ble High Courts in this regard

- As regard compensation of wasting one year of student, the same has to be awarded on the basis of evidence. Therefore, we leave it open to the petitioner to claim the same before an appropriate authority / court etc. in accordance with law.
- As the University and student with mutual consent has already applied for SC/ST scholarship from Directorate of Higher Education but however, student has not even attended one semester of his course therefore, **Directorate of Higher Education is requested not to release the scholarship of this student bearing Aadhar Number** [REDACTED]
- Petitioner Sh. Bharat Bhushan is hereby directed to forward the name of other 100 students whose certificates are withheld with the Respondent University illegally to this Commission.

Further, the Commission hereby directs all the State Private Universities / Colleges as under:

- No University / College in the State shall insist upon a student to submit the original academic and personal certificates, like, mark-sheets, school leaving certificates and other such documents, at the time of submitting admission form, but the submission of self-attested copies thereof shall be mandatory.
- University / College shall physically verify the originals at the time of admission of the students in his/her presence and return them immediately after satisfying themselves about their authenticity, keeping the attested copies for their record.
- The self-attested certificates of students shall be held valid and authentic by institution concerned and or the affiliating university for all purposes and administrative requirements and should there be a need for physical verification at any time during the course of the programme of study, such verification shall be undertaken and the original certificates thus used for verification shall be returned immediately to the student concerned.
- Taking the certificates into institutional custody under any circumstances or pretext is strictly prohibited.
- In case of any suspicion over the authenticity or genuineness of a certificate, reference may be made to university or the Board which issued the certificate to the student and the admission be subjected to the authentication, but original certificate shall not be retained by the University / Colleges under any circumstances.

- If any case any private Universities / Colleges refuse to return original documents of student throughout the State, the Superintendent of Police hereby are requested to lodge an F.I.R. against the Universities / College Management and Registrar for Harassing and black mailing their students by withholding their original certificates / documents.

The above shall order come into the power with immediate effect.

Matter stand adjudicated, representations / applications, if any, in this matter also stand dispose off.

Orders be uploaded on website of the Commission.

Copy of orders be supplied to both the parties as well as quarter concerned.

File after completion be consigned to record room.

Announced.

Major General Atul Kaushik
Chairman