
(1997) 07 KL CK 0039
In the High Court Of Kerala
Case No : O.P. No. 5998 of 1997

Abdul Salam

APPELLANT

Vs

University of Kerala and Others

RESPONDENT

Date of Decision : 02-07-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 2 KLJ 106

Hon'ble Judges : P. Shanmugam, J

Bench : Single Bench

Advocate : Siby Mathew and Wilson Urmese, for the Appellant; S. Gopakumaran Nair, for the Respondent

Final Decision : Dismissed

Judgement

P. Shanmugam, J.—Petitioner is a candidate for M.B.A. course under the University of Kerala. He has filed the above Original Petition for a direction to make selection for the M.B.A. course on the basis of the performance in the common entrance examination and interview. He has also prayed for quashing of Ext.P1 prospectus in so far as it allows 50% of marks for the performance of the qualifying examination. For admission to the MBA degree course, the University takes into account the marks obtained in the qualifying examination plus the marks obtained in the entrance examination, group discussion and interview in the proportion of 50:30:10:10. The sum and substance of the case of the petitioner is that the University should ignore the marks obtained in the qualifying examination and the University shall take into account only the marks obtained in the entrance examination plus the group discussion and interview. On the other hand, the stand of the University is that admission to MBA course is open to all degree students and the minimum mark required is 50% of the average mark in the aggregate and for the marks obtained in the degree level a weightage of 50% is given and the remaining 50% is decided on the basis of the entrance examination, group discussion and interview.

2. The University is following this method of selection from the year 1990-91. The method of selection is approved by the Senate and according to them, this pattern of selection is followed almost in all the Universities who are conducting the MBA programme. The exclusion of the academic marks totally would not be in the interest of selecting the best candidates.

3. Learned counsel for the petitioner referred to two decisions. In *Dinesh Kumar and Others Vs. Motilal Nehru Medical College, Allahabad and Others*, the Supreme Court was dealing with the admission to Medical Colleges in pursuance of the earlier decision of the Supreme Court in *Dr. Pradeep Jain and Others Vs. Union of India (UOI) and Others*, wherein the Supreme Court held that there should not be wholesale reservation of the seats on the basis of "domicile" within the State and certain percentage of seats must be allotted to all India basis on merit. In that context, in the present judgment, the Supreme Court pointed out that at least 30% of the open seats shall be made available for admission of students on all India basis irrespective of the State or University from which they come and such admissions shall be granted purely on merit on the basis of either all India entrance examination or entrance examination to be held by the State. In pursuance of these directions, all India Entrance examination is conducted wherein admission was made purely on the basis of the said entrance examination provided the candidates should have obtained the minimum mark in the qualifying examination. This decision cannot be made applicable to the selection to the MBA course. The facts in relation to the particular judgment as well as the rationale is totally different. That was only in reference to 30% reservation which was set apart to all India entrance examination and that entrance examination itself was conducted by the All India Medical Council on all India basis.

4. The Full Bench decision in *State of Kerala v. Rafia Rahim* (1978 KLT 369) referred to by the learned counsel is in reference to Medical Colleges against the prevalent practice of admitting students only based on the academic performance. It was contended that since there is no uniformity of standards in the students drawn from different Universities, the best scheme of selection in the circumstances would be by holding a uniform entrance examination to secure the uniformity of standards as recommended by the Indian Medical Council. This judgment also in my view would not apply to the facts of the case on hand since the admission is in reference to the Medical Colleges and a finding that the standards of different Universities in Kerala differs and, therefore, admission only based on academic performance was not good and a scheme was directed to be implemented as recommended by the All India Medical Council.

5. The prospectus as set out by the University of Kerala provides for equal weightage, both for academic performance as well as the individual performance at the entrance examination. Even in reference to qualifying marks, the University does not take the mark as such. They have made a formula by which a weightage is given depending upon the marks obtained by the candidates.

According to this formula, the average marks obtained by the 5 top scorers in each category is considered as the maximum marks in that category. Depending on the actual marks obtained by the candidates in the qualifying examination, suitable score is awarded. Therefore, only if a candidate gets 75% marks in the qualifying examination, he may be given a maximum of 50%. Further, 75% marks also depends on the 5 top scorers in each category. Thus there is sufficient safeguard is given to award weightage for the qualifying marks. It is further stated by the University that the performance of the candidates in the entrance examination is given due importance and the weightage for academic performance in the qualifying examination is considered only at the time of final ranking of the candidates after group discussion and interview. Since the number of candidates called for group discussion and interview is limited thrice the sanctioned seats for the programme by taking due weightage or equal weightage to the academic performance of a student, I do not find any arbitrariness in this scheme of selection. It must be borne in mind that the candidates are classified into four categories i.e. Arts, Commerce, Science and Technology and that the selection was made on the basis of the entrance examination. After three or 4? years of study, the students obtained a particular grade in the qualifying examination and their ranking or grade obtained by them cannot be simply written off or ignored. Instead of taking the mark as such, the University has rightly evolved a scheme of valuing the academic marks by taking the average mark of 5 top scorers. So, there is absolutely no arbitrariness in even awarding the suitable marks or giving the weightage to the qualifying examination. As rightly contended by the learned Standing Counsel that in so far as the Master of Business Administration is concerned, they have to be given weightage of degree course as it has been done in almost all the Universities Act only in this country but also outside. The arguments of the learned counsel is based on the admissions to Pre-degree or professional courses. The said argument cannot be imported to post-graduate degree where the degree qualification is not only the basic qualification but also a particular weightage is given to the academic performance in the degree study. In any event, it is not for this Court to decide a particular scheme of admission evolved by the University is proper or not. As such, I do not find any arbitrariness in evolving this formula of selection. A Division Bench of this Court in *Mohan v. Public Service Commission* (1994 (2) KLT 585) in reference to selection by Public service Commission held that it is entirely for the selection committee to decide what should be the appropriate norm for selection and it is not for the High Court under Article 226 of the Constitution to give a different formula for the said selection. Though this is in reference to the selection to an appointment made from the candidates who have completed degree, in which case, the marks obtained degree also should be taken into account. In the case on hand, we find that even for the remaining 50% of mark, the University has awarded 30% towards entrance examination 10% towards group discussion and the remaining for the interview. Thus I find that the norms prescribed by the University for selection is fair and there can be no infirmity. It is found that the petitioner had obtained 61 % marks in B.Tech

course. Before considering his academic marks, he was ranked as 48 by taking only the entrance examination as well as group discussion. But in view of the law mark in the academic performance, he was ranked 72. Probably 61% of mark obtained by him in his B.Tech degree is found to be less compared to other technology students. The University cannot be faulted in taking the higher marks obtained from students of technology. As the Institute of Technology is approved by All India Institute of Technical Education with uniform standards where admission is based on entrance examination and in some cases on academic marks, there is no scope for much variation in the performance of the students of the technology at the degree level. In any event, it is not for this Court under Article 226 of the Constitution to decide a scheme for admission to MBA course. As such, the scheme followed is reasonable and not arbitrary.

For all these reasons, I do not find any reason to interfere with the selection procedure. The Original Petition is accordingly dismissed.