
(1994) 02 AHC CK 0003

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 36313 of 1993

Abhiram Kulshreshtha

APPELLANT

Vs

The Vice Chancellor, Agra University and Others

RESPONDENT

Date of Decision : 25-02-1994

Acts Referred:

Constitution of India, 1950 — Article 14

University Grants Commission Act, 1956 — Section 16

Citation : (1994) 3 AWC 1570 : (1995) 2 UPLBEC 1283

Hon'ble Judges : M.P. Singh, J

Bench : Single Bench

Advocate : Anupam Kulshreshtha, for the Appellant;

Final Decision : Allowed

Judgement

M.P. Singh, J.—The Petitioner has been denied admission to M.B.A. programme on the ground that he was a graduate after 1985 under 10 plus 2 plus 2 scheme without one year's bridge course. The said order dated 18-9-993 is under challenge

2. The Petitioner passed B.A. examination from the Agra University, Agra in the year, 1988. He obtained first division. Thereafter he passed M.A. examination in the year 1990 from the same University.

3. Sri Padara Chand Jain. Institute of Commerce, Business Management and Economics Khandari, Agra started M.B.A. (full-time) and M.B.A. (part-time) course. Fulltime course is of two years and part-time course is of three years. The institute is managed and controlled by the Agra University

4. The Petitioner submitted his application form on 5-9-1993 for admission to M.B.A. course either in full time or part-time course. The instituted vide its letter dated 18-9-1993 informed the Petitioner that he was not eligible for admission.

5. The University Grants Commission is an authority created under University

Grants Commission Act, 1956 "for the purpose of regulating the uniform and minimum standard of instruction for grant: of digress by the Universities in India The Commission in exercise of power conferred by Section 16 of the University Grant Commission Act had framed "a set of rules prescribing the eligibility aid minimum qualification necessary for perusing different courses in the Universities. Regulations have been enforced with effect from 16-1986. It provides that no student shall be eligible for the award of first degree, i.e. bachelor degree unless he has successfully completed three years course. No student shall be eligible to seek admission to that Master course who has not successfully pursued three years duration. The Petitioner was denied admission in the M.B.A. course which is a Master degree because he did not complete three years degree course.

6. As a transitory measure, the Regulation further provides that where the student has completed two years course it was necessary for him to under further one year's bridge course as a necessary precondition for admission to the Master degree the University could not switch over to three years degree course immediately. The Agra University adopted the said 10 plus 2 plus 3 scheme in the academic sessions 19-9-90

7. The first batch of B.A. in three years course, under the said scheme, was admitted to the academic session 1989-90 and completed graduation in 1992 whereas the Petitioner had completed his graduation from the Agra University in year 1988 when the said scheme of 10 plus 2 plus 3 was adopted by the University.

8. The prospectus provides the eligibility of candidates for admission in M.B.A. Course. Clause of the said Prospectus runs as follows:

4 Eligibility.

(a) For M.B.A. (Full-time) : A bachelor's degree (10 plus 2 plus 3) or an equivalent degree (including Medicine, Technology etc) in any discipline from a recognised University with at least 50% marks in aggregate.

(b) For M.B.A. (part-time) : A bachelor's degree (10 plus 2 plus 3 or an equivalent degree (including Medicine, Technology etc.; in any discipline from a recognised University with at least 50% marks II aggregate plus three years work experience in supervisory capacity

Note : 1. Those who hold a Bachelor's Degree under 10 plus 3 or 10 plus 2 plus 2 system of predication and have also passed the bridge course of one year will be considered eligible for this course.

2. Candidates who have obtained their B.A./B. Sc./B.Com degree under 10 plus 2 plus 2 system of education prior to 1985 are eligible for admission to this course without having passed the Bridge Course examination.

3. Candidates securing less than 50% marks in graduate examination but first

division in P.O. examination arc also eligible.

9. A perusal of the prospectus shows that there is a relaxation with regard to 10 plus 2 plus 3 scheme in as much as the out-of date of 1985 has not beer strictly adhered to in some cases. According to Clause (2) candidates who have obtained their B.A./B.Sc-/B.Com degree under 10 plus 1 plus 3 system of education prior to 1985 are eligible for admission to this course without having passed the bridge course examination. "Not only this Clause (3) also provides that the candidates securing Its than 50% marks in graduate examination but first division in P.G. examination are also eligible.

10. The University itself has deviated from the Rules of having 10 plus 2 plus 3 course to be Implemented. This Clause 3 shows that the Bridge Could examination is not a condition precedent in some cases The Petitioner having completed his B.A. course in 1988 before adopting the scheme of 10 plus 2 plus 3 by the University and his M.A. curse in year 1990 and securing second division may also be entitled for exemption of the condition There is no Justifiable reason to deny him admission when the University itself adopted the scheme in 1989-90 academic sessions

11. Graduates, who passed examination in 10 plus 2 plus 2 scheme in year 1985, are being considered for admission without having passed the bridge course examination on the ground that the University Grant Commission started the scheme of 10 plus 2 plus 3 in the year 1985 Even if the University Grant Commission had started the said scheme in year 1985 the University cannot deny admission to the Petitioner because three years degree course HO plus 2 plus 3 schemes was started in year 1989-90, after the Petitioner obtained the bachelor degree from that very University without any rider, if the Petitioner was admitted in Masters course in year 1989 then he could very well be admitted in M.B.A. Course once he became eligible to be admitted to that course then by subsequent decision of the University the right of admission, which has already accrued, could not be taken way.

12. Denying admission to the Petitioner in M.B.A. course is arbitrary and discriminatory. Had Agra University itself adopted 10 plus 2 plus 3 scheme in 1985 or prior to his admission in B.A. then, of course, the stand of the University would have been justified.

13. The impugned order dated 18-9 1990 and the eligibility condition fixed by the University for admission in M.B.A. course denying admission to the Petitioner, who has passed two yeane course after 1985 but prior to adoption of 10 plus 2 plus 3 scheme by the University, is wholly arbitrary and is offending the provisions of Article 14 of the Constitution If the University failed to adopt scheme of 10 plus 2 plus 3 in year 1985 and adopted it in the academic sessions 1989-90, the Petitioner could not have been denied admission since he obtained bachelor in year 1988 in the scheme of 10 plus 2 plus 2.

14. The other question to be examined by me is as to whether the cut of year

fixed as 1985 should be strictly adhered to or not. Admittedly the eligibility criteria made in the prospectus has made relaxation in some cases. I am not required to examine the validity of the cut off year In the case of State of Bihar and others Vs. Ramjee Prasad and others, while examining the validity of cut-off date it was observed that the choice of a date cannot be dubbed as arbitrary even if no particular reason has been given for fixing such date. The person challenging it, has to establish that it was whimsical or capricious or arbitrary choice of a date depends upon various factors which has to be examined by the authority fixing the date.

15. Similar view has been taken by the Supreme Court in another case All India Reserve Bank Retired Officers Association and others Vs. Union of India and others, .

16. The ratio of these decisions was that the Courts have power of judicial review but it can do so only if it is shown that the date so fixed was capricious or whimsical or arbitrary or it could not otherwise be fixed reasonably. But in the instant case the University Grants Commission had taken a decision in 1985 fixing this year as cut off year which is not a valid one but as discussed in the proceeding paragraph the Petitioner was entitled for relaxation.

17. The University has specified certain guidelines for entrance test (M.B.A.) which is as follows:

3. The test is designed to 4 evaluate candidate's learning ability for Management Education. In order to achieve this objective, the test attempts to assess the candidates general awareness, data interpretation and numerical ability and verbal ability, comprehension through a written test followed by group discussion and interview. The weightage of these three is as given below:

Written Test 60 Group Discussion 20 Interview 20

N.B. : Only those candidates will be called for interview who qualify in group discussion.

18. Referring to the said guidelines it was contended on behalf of the University that it has been uniformly followed by all the Universities that 40% marks are the minimum qualifying marks in all types of examinations. No student securing less than 40% marks either in written test general discussion or oral test has been admitted by the University.

19 The Guidelines required a candidate to secure 40% marks either in written test, general discussion or oral test individually does not appears to be reasonable. 40% marks are referred to the total marks obtained by a candidate. Moreover In this case on 1-10-1993 an interim order was pased permitting the Petitioner to provisionally appear in the entrance test for M.B.A. curse for the sessions 1993-94 and also in the interview, if he was successful in the written test. The result of the Petitioner was not to be declared until further orders of the court.

20. The institution has complied with only a part of the order in as much as the Petitioner has been permitted to appear in the entrance test but he has not been called for interview. It is not necessary for me to go into the question whether the opposite parties have committed contempt of this Court or not because the Petitioner has not come forward for taking any action against the opposite parties Nos. 2 or 3. In view of that order the Petitioner was entitled to be called for interview if he had qualified in the written test, It was not done The University was under legal obligation to permit the Petitioner to appear in the interview as well.

21. The Petitioner is permitted to appear in the interview and the Respondents are directed to act fairly without any prejudice to the Petitioner's right, on account of the fact that he has obtained an interim order from this Court.

22. The Petitioner having passed the B.A. course in year 1988 and obtained Master Degree in 1990, and three years scheme having been adopted in the academic sessions (1989-90) the Respondents are not justified in denying the Petitioner the admission in M.B.A. course for want of one year's bridge course in B.A.

23. Accordingly I am of the view that the order dated 18-9-93 is wholly illegal and arbitrary.

24. The writ petition succeeds and is allowed. The order dated 18-9-1993 is hereby quashed.

25. The opposite party No. 1 is directed to permit the Petitioner to appear in the interview in compliance of the order dated 18-9-1993 within a period of two weeks from the date of filing of a certified copy of this order before him and declare the result within two weeks thereafter and also admit the Petitioner within a week from the date of declaration of result in case he succeeds in entrance test by getting 40% in total.