

(2010) 10 DEL CK 0219

In the Delhi High Court

Case No : Writ Petition (C) No. 6128 of 2008

Ajay Kumar

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 28-10-2010

Acts Referred:

University Grants Commission Act, 1956 — Section 26

Citation : (2010) 10 DEL CK 0219

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Sandeep Jindal, for the Appellant; Mohinder J.S. Rupal and Preeti Maniktalya for Respondent No. 1, Mayank Manish, for Amitesh Kumar, for Respondent No. 2, Vinay Garg, Rajesh Yadav and A.S. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The petition was filed for directing the respondent No. 1 University of Delhi to grant admission to the petitioner to LLB course.

2. The eligibility prescribed for admission to LLB is Graduate/Post Graduate Degree from University of Delhi or any other Indian or Foreign University recognized as equivalent by the University of Delhi with at least 50% marks or an equivalent grade point in the aggregate in either of them. The petitioner seeks admission on the basis of LLM Degree obtained by him from Amity University. Though Amity University was not impleaded as a respondent when the petition was originally filed but the petitioner applied for its impleadment as a respondent and which was allowed.

3. The respondent refused admission to the petitioner for twofold reasons. Firstly, that the LLM Degree of Amity University on the basis of which admission is sought is not recognized by the University of Delhi. It is contended that the Amity University has never approached the University of Delhi for recognizing the said Degree. Secondly, that the Post Graduate Degree on the basis of which

admission to LLB course can be sought has to be in a stream other than law; it is urged that Post Graduation in a subject cannot be a qualification for admission to Graduation in the same subject.

4. This Court after hearing the counsels on 12th May, 2009 (i.e. before Amity University was impleaded as a party), considering that the issues raised in the petition could not be decided in the absence of University Grants Commission (UGC), impleaded the UGC as a party. UGC in its counter affidavit with reference to Section 26 of the UGC Act, 1956 and the Regulations framed thereunder has pleaded that no student is eligible to seek admission to Master's course, who has not successfully pursued the First Degree course of three years duration in that faculty; unless and until a candidate successfully pursues the first degree course of three years duration, he cannot be eligible for admission to Master's course. It is thus the stand of UGC that if a Master's Degree has been obtained in contravention of the Regulations aforesaid, such Master's Degree cannot be termed a valid degree for any purpose including employment.

5. The counsel for the University has argued that the petitioner even though has not claimed admission to the LLB course on the basis of his Graduation Degree, is not eligible on that basis also for the reason of having not secured the requisite 50% marks therein; that the LLM Degree from Amity University on the basis whereof admission is claimed is not recognized and thus even though the petitioner has secured more than 50% in the said LLM Degree but the same cannot be the basis of his admission; that admission to Bachelor's course in a subject after having done Master's course in the same subject in any case is not possible. Reliance is placed on *Guru Nanak Dev University Vs. Sanjay Kumar Katwal and Another*, where the Supreme Court held that normally a student cannot enroll for a Master's Degree unless he has a basic Bachelor's Degree in the chosen subject and that recognition of a Degree is a policy decision relating to academic matter with which the Court will not interfere.

6. The counsel for the petitioner relies on the prospectus and syllabus of Amity University for the LLM course done by the petitioner, to the reply to a question in the Lok Sabha to the effect that Amity University has been established by the Government of Uttar Pradesh and to the Judgment of the Division Bench of this Court in *University Grants Commission v. Amity University* 145 (2007) DLT 721 laying down that no recognition from UGC is required for establishment of a University.

7. The counsel for the UGC in response informs that the SLP preferred to the Supreme Court against the judgment aforesaid of the Division Bench of this Court has been admitted and the appeal is pending.

8. The counsel for the petitioner also relies on the judgment dated 28th August, 2008 of this Court in WP(C) No. 7350/2007 titled *Amity University v. Delhi University*. However, the said judgment grants relief merely on the basis that the Degree of Amity University under consideration in that case had been recognized

by the Delhi University. Rather the said case lends support to the proposition that without such recognition, there could be no admission.

9. The counsel for the Amity University has contended that the Statute/ Ordinance of the Delhi University providing for empowering the University to determine equivalence of a degree is void.

10. As far as the contention of the Amity University is concerned, the same does not arise for consideration in the present petition. The Amity University has not approached the Court challenging the Statute/Ordinance of the Delhi University. The petitioner also has not challenged the same. The petitioner has preferred this petition merely on the ground that the LLM Degree conferred on him by the Amity University is a Post Graduation Degree and on the basis thereof the petitioner is entitled to admission. As noted in the order dated 12th May, 2009 of this Court, under Statute 8 of the Delhi University framed under the Delhi University Act, 1922, the University has a right to recognize Diplomas and Degrees of other Universities and Institutions and to determine their corresponding value in relation to those of the Delhi University. The University, has stated in its counter affidavit has not recognized the Post Graduate Degree of LLM of the Amity University as equivalent to any Degree of the Delhi University. Thus, it cannot be said that the Delhi University in refusing admission to the petitioner has violated any of its Statutes, Ordinances, Rule or Regulations.

11. It is settled position in law that no mandamus as sought can be granted to direct a person/Institution to act in contravention of its Rules & Regulations. Reference in this regard may be made to *Maharshi Dayanand University Vs. Surjeet Kaur*, I even otherwise do not find the stand of the University of Delhi to be so unreasonable so as to still entertain this petition. There is nothing wrong in a University providing that recognition by it of Degrees of other University shall be subject to decision of its Equivalence Committee. Without the same, the University may not be able to maintain its academic standards. It is also not as if the said rule is applicable to Amity University only. The said rule is a general rule and nothing prevents Amity University from having its Degrees recognized by Delhi University. However this shall be subject to the very validity of the said LLM Degree, in view of the stand of UGC.

12. The Supreme Court in *Prof. Yashpal and Another Vs. State of Chhattisgarh and Others*, held that mere conferment of Degree is not enough; what is necessary is that the Degree should be recognized.

13. There is also merit in the other contention of the Delhi University that there can be no admission to a Bachelor's course in a subject on the basis of a Master's Degree in the same subject inasmuch as the same tantamounts to putting the cart before the horse. I find that the Supreme Court in *Annamalai University rep. by Registrar Vs. Secy. to Govt. Infn. and Tourism Dept. and Others*, reiterated the Master's Degree obtained, in that case in Open University, without obtaining first a Bachelor's Degree to be not valid.

14. The petition is dismissed. I refrain from imposing any costs on the petitioner.