

(2019) 08 RAJ CK 0315

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3500, 3501, 4153 Of 2019

Amarjeet Kaur And Ors

APPELLANT

Vs

Jai Narayan Vyas University, Jodhpur And Ors

RESPONDENT

Date of Decision : 14-08-2019

Acts Referred:

Advocates Act, 1961 — Section 4, 7(1)(h), 49(1)(af)
Bar Council Of India Rules for Legal Education, 2008 — Rule 7

Citation : (2019) 08 RAJ CK 0315

Hon'ble Judges : Sangeet Lodha, J

Bench : Single Bench

Advocate : K.S. Gill, M.C. Bishnoi, Kuldeep Mathur, B.P. Mathur, ritam Solanki

Final Decision : Dismissed

Judgement

1. By way of these writ petitions, the petitioners, who were admitted to LL.B. (Three Years) Degree Course, are seeking directions to the respondents not to cancel their admission and permit them to complete their course.

2. The facts relevant are that the petitioners completed their Graduation in Arts from Maharaja Ganga Singh University, Bikaner/Jai Narayan Vyas University, Jodhpur in third division. The petitioners Amarjeet Kaur, Mahendra Singh and Sher Singh in Graduation secured 39.83%, 43.33% and 42.61% marks respectively. The petitioners applied for admission to LL.B. (Three Years) Degree Course pursuant to the advertisement issued by the respondent no.3-Sir Pratap Mahavidhyalaya for academic session 2018-19. The petitioners were admitted to the course and started their regular course of studies. Since, the respondent College is affiliated to J.N.V.University, Jodhpur, the petitioners filled in their examination form of LL.B. (First Year) online and deposited the examination fee, however, their admit card for appearance in the examination were not issued. In these circumstances, the petitioners preferred the writ petitions seeking relief as aforesaid.

3. On 15.3.19, this court while permitting impleadment of Bar Council of India and Bar Council of Rajasthan as party to the writ petition, issued notices to the respondents and passed an interim order in favour of the petitioner in the following terms:

"Meanwhile, the respondents are directed to allow the petitioner to appear in the concerned examinations which are scheduled to commence from tomorrow i.e. 16.03.2019. The respondents shall be required to complete all the necessary formalities so that the petitioner shall appear in the examination commencing from tomorrow onwards. However, the result of the petitioner shall be kept in sealed cover."

4. The matters come up on applications preferred by the petitioners to declare the result, however, with the consent of the learned counsel for the parties, the matters were finally heard at this stage.

5. The respondent University in its reply to the writ petition has taken the stand that for Three Years' LL.B.Course, the minimum marks required in qualifying examination i.e. Graduation is 45% and since none of the petitioners fulfills the eligibility condition of 45% marks in Graduation, they were not eligible to be admitted to Three Years' LL.B. Course and therefore, their admission was cancelled by the respondent College and the factum of cancellation of admission was communicated to the University by the Director of the respondent College vide letter dated 11.3.19 (Annexure R/2). It is submitted that the petitioners being not eligible as per the Bar Council of India Rules for Legal Education and their admission having cancelled, they are not entitled for the relief as claimed.

6. By way of rejoinder to the reply, the petitioners submitted that after admission they have undergone regular course of studies, however, they were never informed that their admission is going to be cancelled. It is submitted that petitioners were permitted to fill up the examination form and have already appeared in the examination pursuant to interim order passed by this court. According to the petitioners, they were eligible to be admitted to Three Years' LL.B.Course as per the Rules for Admission of the respondent University which permits benefit of 5% of total aggregate marks obtained at the degree or post graduate examination to the candidates passing their qualifying examination from J.N.V. University. The relevant rule reproduced in para no.5 of the rejoinder reads as under:

"As per the Part III-Law, Rules for Admission in the faculty of law

1. Eligibility for admission to LLB-Determination of Merit:-

1. Marks obtained in the degree for post graduation examination will be taken into account in preparing the merit list.

2. A benefit of 5 percentage of the total aggregate marks obtained at the degree or post graduate examination shall be given to the candidate passing their qualifying examination from Jai Narayan Vyas University."

7. Learned counsel submitted that after admission petitioners having undergone the regular course of studies, could not have been denied the opportunity to appear in the examination. Learned counsel submits that the petitioners cannot be penalized for no fault on their part.

8. On the other hand, counsel appearing for the respondent University submitted that the provision for 5% weightage to the students who have passed the qualifying examination from J.N.V. University is extended for the purpose of preparation of the merit and it cannot be extended so as to make the student eligible for admission to the course by granting relaxation in minimum qualifying marks. Learned counsel urged that the admission to LL.B. Three Years' Degree Course is governed by Rules of Legal Education framed by Bar Council of India, which clearly provides that the Bar Council of India may from time to time stipulate the minimum percentage of marks not below 45% of total marks in case of General category, 42% for OBC category and 40% of total marks in case of SC/ST category and accordingly, the respondent University has prescribed that only the candidates who have secured at least 45% marks in aggregate in degree course shall be eligible for admission to the LL.B.Course. Learned counsel would submit that the admission of the petitioners who were not fulfilling the eligibility criteria laid down for admission to the professional course of LL.B., has rightly been cancelled and thus, petitioners are not entitled for any relief whatsoever.

9. Learned counsel appearing for the respondent College submitted that the respondent College having come to know about the erroneous application of the admission rules, has rightly cancelled the admission accorded to the petitioners. It is submitted that after cancellation of the admission, the fee deposited by the petitioners was also directed to be refunded.

10. I have considered the submissions of the learned counsel for the parties and perused the material on record.

11. It is noticed that as per provisions of Section 7 (1) (h) of the Advocates Act, 1961 ("the Act of 1961"), the Bar Council of India is responsible to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils. Section 49 (1) (af) empowers the Bar Council to make rules prescribing the minimum qualifications required for admission to a course of Degree in Law in any recognized University. As per Rule 7 of the Bar Council of India Rules for Legal Education, 2008 which deals with minimum marks in qualifying examination for admission, Bar Council is empowered to stipulate from time to time minimum percentage of marks not below 45% of the total marks in case of General category applicants, 42% for OBC category and 40% of total marks in case of SC/ST applicants to be obtained from qualifying examination, such as + 2 Examination in case of Integrated Five Years' Course or Degree Course in any discipline for Three Years' Degree Course for the purpose of applying for and getting admitted into a Law Degree Program of any recognized University in

either of the streams. It is further provided that such minimum qualifying marks shall not automatically entitle a person to get admission into an institution but only shall entitle the person concerned to fulfill other institutional criteria notified by the institution concerned or by the Government concerned from time to time to apply for admission. It is not disputed before this Court that presently, the minimum marks in qualifying examination prescribed by the Bar Council of India for admission to LL.B. Course is 45% in aggregate.

12. Indisputably, the respondent College wherein the petitioners were admitted to Three Years' LL.B. Degree Course in the first instance, is affiliated to J.N.V. University, Jodhpur.

13. As per the Rules for admission in the Faculty of Law framed by the J.N.V. University, subject to compliance with requirement of Ordinances and Regulations of the University, a candidate, who after taking Bachelor's degree in Arts, Science/Commerce/ Medicine/ Social Sciences/Engineering/ Agriculture, of the J.N.V. University of an Indian or Foreign University recognized for the purpose by the University and securing at least 45% marks in the aggregate, shall be eligible for admission to LL.B. Course. Thus, the minimum qualifying marks prescribed by the J.N.V. University for admission to Three Years' LL.B. Course is in conformity with the minimum qualifying marks for admission to the said course as prescribed by the Bar Council of India.

14. Much emphasis is laid on behalf of the petitioners on the provisions incorporated by the J.N.V. University for extending weightage of 5% of total aggregate marks to the candidates passing their qualifying examination from J.N.V. University, which reads as under:

"DETERMINATION OF MERIT

1. Marks obtained at the degree or postgraduate examination will be taken into account in preparing the merit list.

2. A benefit of 5 percent of the total aggregate marks obtained at the Degree or Postgraduate examination shall be given to candidates passing their qualifying examination from Jai Narain Vyas University, Jodhpur.

3. If a candidate re-appears at the B.A./B.Com./B.Sc. Examination and improved his performance, the higher marks will be taken into consideration to determine his merit.

4. Failures of L.L.B. Class will not be given admission to the same class."

(Emphasis added)

15. A bare perusal of the Rule makes it abundantly clear that the benefit of 5% of the total aggregate marks obtained at the Degree or Post Graduate Examination to be given to the candidates passing their qualifying examination from J.N.V. University, is only for the purpose of determination of merit and in no manner it could be read as providing for relaxation in minimum qualifying marks

to the students who have passed the qualifying examination from the J.N.V. University.

16. It is pertinent to note that the standard of legal education in the Country is regulated by Bar Council of India, a statutory body constituted under the provisions of Section 4 of the Act of 1961. As a matter of fact, the recognition to the University whose degree in law shall be qualification for enrollment is also granted by the Bar Council of India. The Bar Council of India Rules of Legal Education framed in exercise of the power conferred under the Act of 1961, defines the recognized University and also makes provisions regarding the eligibility for admission to the professional law courses, minimum marks in qualifying examination for admission in such courses, as also the academic standards and the course to be studied etc. In the considered opinion of this Court, the norms laid down for regulating the admission to LL.B. professional courses cannot be relaxed even by the recognized University and thus, the condition of the minimum qualifying marks for admission to Integrated Five Years' Law Course and Three Years' LL.B. Course, has to be strictly adhered to and nobody can be permitted to apply for getting admitted into said courses by relaxing the eligibility criteria prescribed.

17. In view of the discussion above, none of the petitioners who have secured less than 45% marks in their qualifying examination, were eligible to be admitted to the Three Years' LL.B. Degree Course and thus, their admission have rightly been cancelled and they have rightly been debarred from participating in the examination.

18. In the result, the petitions fail, the same are hereby dismissed. Interim orders passed by this Court in favour of the petitioners permitting them to appear in examination are vacated. The examination of the petitioners wherein they have appeared pursuant to the interim order passed by this Court shall stand cancelled. No order as to costs.