
(1992) 08 AHC CK 0100

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 28350 of 1992

Anand Kumar

APPELLANT

Vs

Principal, Agra College and Others

RESPONDENT

Date of Decision : 31-08-1992

Acts Referred:

Citation : (1992) 4 AWC 81 Supp : (1993) 1 UPLBEC 216

Hon'ble Judges : R.A. Sharma, J

Bench : Single Bench

Advocate : Barun Pratap Singh, for the Appellant; Sushil Harkauli, for the Respondent

Final Decision : Allowed

Judgement

R.A. Sharma, J.—Petitioner, being aggrieved by refusal of admission to LL.B. 1st year by the Principal, Agra College, Agra (here-in-after referred to as the college), has filed this writ petition for writ of mandamus commanding the Principal to grant him admission. The Principal of the college has filed a counter affidavit and the Petitioner has filed rejoinder affidavit in reply thereto. I have heard learned Counsel for the Petitioner and learned Counsel for the Principal as well as the learned Standing counsel.

2. The Petitioner passed B.Sc. from the college in the 1st division and from the same college he has passed M Sc. in 1st division. After having passed the M.SC., he applied for admission to LL.B. 1st year and having been refused admission, he has filed this writ petition.

3. Sri Harkauli, learned Counsel for the Respondents has invited my attention to clause (3) (Ba) of the Prospectus of the college, wherein power has been given to the Principal to refuse admission to any class to any candidate. The above Clause of the Prospectus is based on the guidelines issued by the University for admission to various classes, a true copy of which has been filed as Annexure I to the counter affidavit. Clauses 3(Ba) and 4 of the Guide Lines, being relevant

are reproduced below :

3 (ka) Pracharya ka pravesh ke mamlon me Agra Viswavidyalaya vivran pustika ke adhyay 19 ke niche udhrit adhyadesh 2-ka ke anusar kartabya evam adhikar honge.

Subject to the orders issued under sub-section (4) of section 28 of the Act, the Principal shall be sole authority to admit or refuse to admit any applicant to any class in his college. He shall however, duly and strictly follow the norms and principles, if any laid down by the University and such other directions as may be given to him from time to time by the authority.

Provided that the Principal may, at his discretion, refuse to admit a candidate even if he is entitled for admission according to norms and Principles laid down by the University and shall report all such cases to the Admission Committee.

Spastikaran - Udaharanarth pravesh dene se inkar kiya ja sakta hai.

1 - Yadi abhyarthi kisi shiksha sanstha me anushasanhinata ke aroop me dosi paya gaya ho.

2 - Yadi abhyarthi kisi bhi nyayalaya dwara naitik apradh me dandit kiya gaya ho ya nyayalaya me shasan dwara aparadh me panjikrit ho gaya ho aur nirnaya ke liye vicharadbin ho.

4 (ka) L.L.B. (pratham vars)

L.L.B. (pratham vars) me pravesh keval योग्यता क़रम के अधर पर ही दीये ज़येगे योग्यता सूची शािक्षिक एवम अतिरिक्त अंको के निम्नलिखित अधर पर त़ियार की ज़येगे.

(aa) Saishik :

(1) Intermediate या समक्षा परिक्षा मे प्रप्ता अंको के प्रतिसात का 50 प्रतिसात.

(2) Snatak परिक्षा मे प्रप्ता अंको के प्रतिसात या सात प्रतिसात.

4. By clause 4, referred to above, admission to LL.B. 1st year is required to be made on the basis of merit. However, under Clause 3(Ba) the Principal of an affiliated college is sole authority to admit or refuse to admit any candidate to any class in his college. It is true that the proviso to Clause 3(Ba) given a discretion to the Principal to refuse admission even if a candidate is entitled to the admission in accordance with the norms and principles laid down by the University. But for exercising such a discretion, clarification has been appended to the above proviso for the purpose of illustration as to the circumstances under which an admission can be refused. One of the circumstances referred to therein is when student has been found to be guilty of any indiscipline and the second circumstance is when he has been found guilty of an offence involving moral turpitude or when he is an accused in an offence in a trial pending before the Court. Although clarification appended to the said proviso is not exhaustive of the circumstances under which student, who is entitled to admission in accordance

with the norms and principles laid down by the University, can be refused admission by the Principal, but it indicates the underlying idea to the effect that unless the student has been found guilty by a Court or by a competent authority or he is facing trial in a Court, he cannot be refused admission by the Principal. The Principal cannot refuse admission to any student merely on the basis of complaint or on the ground of suspicion. The power given to the Principal under the proviso appears to be absolute in terms but reading the proviso in juxtaposition with the clarification appended thereto, it is clear that it is under limited circumstances under which the Principal can refuse admission.

5. In the instant case the only thing, which has been cited against the Petitioner in the counter affidavit for refusing him admission is a letter dated 26-5-1992 sent by the Principal to the Chairman of the college in reply to the letter of the Vice-Chancellor regarding the admission of the Petitioner. A copy of this letter has been filed as Annexure II to the counter affidavit. In the said letter it has been mentioned that the Petitioner used to quarrel on the play ground and in March, 1991 he entered the Girls Section of the college and abused the teacher. Similar letter was sent by the Principal to the Vice-Chancellor, a copy of which has been filed; as Annexure III to the counter affidavit. It is difficult to believe those allegations. If the Petitioner was really guilty of misconduct mentioned in those letters, the matter should have been reported to the authorities for taking disciplinary action against him ; but nothing of the kind was done. Without holding the Petitioner guilty of any misconduct, he has been refused admission, which is not permissible under law.

6. It has come on the record that the Petitioner has been a brilliant student throughout and in merit list for admission to LL.B. 1st year prepared by the college he was placed at serial No. 2. In view of the norms and principles laid down by the University, the Petitioner was entitled, as a matter of right, for admission to LL.B. 1st year; but unfortunately he has been refused admission without any justification.

7. The writ petition is accordingly allowed with costs. The Principal-Agra College, Agra is directed to admit the Petitioner to LL.B. 1st year in the session 1992-93.