

(1989) 08 P&H CK 0145
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No 899 of 1988

Anita Tangri and another

APPELLANT

Vs

Punjabi University, Patiala and another

RESPONDENT

Date of Decision : 07-08-1989

Acts Referred:

Citation : AIR 1990 P&H 71

Hon'ble Judges : A.L. Bahri, J

Bench : Single Bench

Advocate : Arun Jain, for the Appellant; Gopi Chand, for Advocate General and R.L. Sharma, for the Respondent

Judgement

1. Vide this judgment four petitions are for disposal: C.W.P. Nos. 899 of 1988, 2625, 2627 and 2810 of 1989. Petitioners to these cases sought admission to Post Graduate Training and Research Course (3 years M.D. Ayurveda Course) in the Government Ayurvedic College, Patiala for the Session 1988 and 1989. They were declined the admission. To some of the petitioners eligibility certificates were issued by the Punjabi University but were cancelled. To others such certificates were not issued.

2. Civil Writ Petition No. 899 of 1988 has been filed by Anita Tangri and Sudarshan Kumar Vermi. They passed Ayurveda Acharaya 5 years Course from All India Ayurveda Vidya Peeth, Delhi in the year 1983 and 1982 respectively. Annexure P-1 is copy of the provisional certificate in respect of Anita Tangri. As per Annexure P-2 a notice published in the Tribune dated January 3, 1988 applications were invited for admission to the 3 years M.D. Ayurveda Course. Anita Tangri submitted her application along with eligibility certificate Annexure P-3 issued by the Punjabi University. Such certificate in respect of Sudarshan Kumar was withheld and not issued by the University. The eligibility certificate issued in respect of Anita Tangri Annexure P-3 was withdrawn by the University vide letter dated January 21, 1988 Annexure P-4. Annexure P-5 is a certificate that Sudarshan Kumar petitioner was a bona-fide resident of Himachal Pradesh.

Annexure P-6 is a certificate that Sudarshan Kumar belonged to Lohar community. In view of the facts stated above these petitioners were not called for interview for admission to the course which was fixed for January 27, 1988. In other words they could not be admitted to the Course for want of eligibility certificates.

3. The stand of the University-respondent No. 1 is that the degree obtained by the petitioners was neither recognised by the Punjabi University nor any other University and on that account eligibility certificate issued in respect of Anita Tangri was withdrawn. Both these petitioners were thus not eligible for getting admission. Vide order March 10, 1988, passed by this Court the petitioners were granted provisional admission for the M.D. Course subject to the decision of this writ petition.

4. In the Writ Petition No. 2625 of 1989 Pritam Singh Kathuria, Sham Lal Arora and Kiran Sharma are the petitioners. They had also passed 5 Years Course from All India Ayurveda Vidya Peeth, Delhi and on that basis they wanted admission in the Patiala College to the M.D. Course for the Session 1989. They referred to the case of Anita Tangri who was allowed provisional admission. However, no provisional admission was allowed to these petitioners. Decision in Anita Tangri's case would cover this case as well.

5. In the Civil Writ Petition No. 2627 of 1989 Veena Kapila is the petitioner who passed Ayurveda Acharya 5 Years Course from Punjab State Faculty of Ayurvedic and Unani Systems of Medicines, Chandigarh. She sought admission in the 3 Years M. D. Ayurveda Course of Government Ayurvedic College, Patiala. Applications were invited for the said Course through advertisement published in the Tribune dated January 6, 1989 Annexure P-2. Annexure P-3 is the eligibility certificate which was issued to the petitioner when she was seeking admission in the college in the said Course last year. However, when she approached this year such eligibility certificate was withheld. Reference was made in the petition about certain candidates of All India Ayurveda Vidhya Peeth. Delhi, who were issued such eligibility certificates, one being copy Annexure P-4. These certificates were subsequently cancelled and thus reference was made to the petition of Anita Tangri C.W.P. No. 899 of 1988. According to the petitioner the degree obtained from Punjab Institute (Chandigarh) was recognised by the Punjabi University. The stand of the University in the written statement is that Punjabi University never recognised the degree of the Punjab Institute (Chandigarh) as equivalent to such a degree of the Punjabi University on the basis of which admission was sought in the M.D. Course. It was stated that the provisional certificate issued in respect of Anita Tangri was cancelled. Likewise eligibility certificate issued in respect of the petitioner was cancelled as the petitioner was not eligible for admission to the Course. In the 4th writ petition No. 2810 of 1989 Naresh Kumar petitioner also passed 5 years Course from the Punjab Institute (Chandigarh). The decision in Veena Kapila's case would cover this case as well and other facts are common.

6. The question for consideration is as to whether Punjabi University approved the degree courses of Delhi and Punjab (Chandigarh) institutes for admission to 3 Years M.D. Course and if "yes" as to whether such recognition was ever withdrawn.

7. Punjabi University Calendar Volume II 1975 Edition, may be referred to at page 117, mentioning the qualifications for admission to Master of Ayurvedic Medicine. Rule 2(i) provides as under :-

"The examination shall be open to any person who satisfies the following requirements :--

(i) has obtained, at least three years previously the degree/diploma of Ayurvedacharya from this University or any other examination recognised as equivalent thereto; as per Appendix-A."

Appendix-A is printed at page 121, wherein the following degrees -- recognised by Central Council of Indian Medicine as equivalent to Ayurvedacharya of the Punjabi University, Patiala, are given. Item Nos. 4 and 15 read as under :--

"The following degrees are recognised by Central Council of India Medicine Act, 1970 as equivalent to Ayurvedacharya of the Punjabi University. Patiala.

4. Ayurvedacharya/Vaidacharya -- All India Ayurvedic Vidyapeeth. Delhi.

15. G.A.M.S. Ayurvedacharya -- Faculties of Ayurvedic and Unani Systems of Medicine, Punjab and Haryana, Banaras Hindu University, Varanasi."

From the above it is quite clear that in the year 1975, All India Ayurvedic Vidyapeeth Delhi and Faculties of Ayurvedic, and Unani Systems of Medicine, Punjab and Haryana, were recognised by the Punjabi University, Patiala. Degrees awarded by these institutions were approved by the Punjabi University as equivalent for the purposes of admission to Master of Ayurvedic Medicine degree course in the Punjabi University.

8. The contention of Shri M. L. Sharma, appearing on behalf of the respondent Punjabi University, is that in 1981 when Punjabi University Calendar was published, this list was omitted and the petitioners cannot take any benefit of the list of recognised University as published in University Calendar of 1975. He has made reference to Rule 2 of Ayurvedavachaspati (M.D. Ay. Rasashastra/ Dravyaguna) Examination. Rule 2(a) reads as under :--

"The admission requirements for the course shall be as under:

(a) Four/Five years regular Diploma/Degree from a statutory Board, Faculty or University recognized by the Punjabi University and Central Council of Ayurveda or as approved by this University from time to time with one year standing after graduation."

He referred to list of Universities recognized by the Punjabi University, Degrees issued by such Universities are recognized as equivalent to the degrees of

G.A.M.S. of Punjabi University which was produced along with the written statement filed on behalf of the Punjabi University in the case of Veena Kapila C.W.P. No. 2627 of 1989. The aforesaid list, of course, does not contain the degrees issued by the Delhi Institute and the Punjab Institute, Chandigarh as referred to above. The authenticity of this list was seriously disputed at the time of arguments. Shri R. L. Sharma, Advocate, as directed, has produced the University Record. However, he was unable to point out any order of the University recognizing the degrees issued by different universities as contained in this list or any order of the University de-recognizing the degrees of the two institutes of Delhi and Punjab at any time. That being the position, no importance can be attached to the list of Universities now being produced in these cases. Such a list as contained in Annexure --"A" of Punjabi University Calendar. Vol. II as referred to above, would continue to hold the field till any order is passed by the University de-recognizing any of the degrees issued by any of such institutions.

9. There is another aspect of the matter. When the petitioners joined 5-Years Course in All India Ayurveda Vidhya Peeth, Delhi or Punjab State Faculty of Ayurvedic and Unani Systems of Medicines, Chandigarh, also five years course, degrees issued by these Institutions were recognized by the Punjabi University as equivalent to similar degrees issued by this University. Students at that time knew that if they would obtain degrees from Delhi or Punjab, they would be eligible to get admission in the College at Patiala which is under the Punjabi University. Assuming for the sake of argument that some time in 1981 the Punjabi University had taken a decision to de-recognize the degrees of these two Institutions, that would operate pro-spectively, i.e., to the courses starting after taking such decision and not to the degrees in the courses continuing at that time or completed earlier.

10. The second schedule attached to the Indian Medicine Central Council Act. 1972, contains the Institutions which have been recognized by the said Council. Item No. 12 refers to All India Ayurveda Vidyapeeth, Delhi and Item No. 83 refers to Faculty of Indian Medicine, Punjab. This would show that the present petitioners who have obtained degrees from their respective institutions which were also recognized by the Central Council of Medicine, could claim admission to M.D. Course in Patiala College.

11. Learned counsel for the Punjabi University referred to a decision of the Supreme Court in Dr Muneeb-ul-rehman Haroon and Others Vs. Government of Jammu and Kashmir State and Others, and argued that the admission to professional colleges cannot be questioned in the writ proceedings unless there was any violation of any of the fundamental rights and or the action in admitting the students was in any manner arbitrary or mala fide. That was a case where admission was allowed after entrance test and every one taking the test had equal chance of competing with others to get admission on merit. The observations, as referred to above, have to be read with the context of the facts

of that case and are not at all applicable to the case in hand.

12. In the present case, the petitioners have succeeded in establishing that on the basis of the degrees obtained from Delhi and Punjab Institutions which were recognized by the Punjabi University, they were eligible to get admission. I am told that still there are few" seats available in the University.

13. For the reasons stated above, these writ petitions are allowed with costs. Counsel's fee assessed Rs. 500/- in each of the cases. The respondents are directed to regularise the admission of those petitioners who were admitted under orders of this Court and to allow the admission to others, if necessary to create new seats in the current sessions if the petitioners so like or to consider their cases for admission in the next session.

14. Petitions allowed.