

(2015) 07 P&H CK 0155
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 12171 of 2014 (O&M)

Anmol Sharma

APPELLANT

Vs

Guru Ravi Dass Ayurveda University and Others

RESPONDENT

Date of Decision : 22-07-2015

Acts Referred:

Citation : (2015) 07 P&H CK 0155

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : H.C. Arora, for the Appellant; Anil Sharma, Advocates for the Respondent

Judgement

Rakesh Kumar Jain, J—The petitioner is aggrieved against the decision of respondent No. 2 dated 6.6.2014 by which his admission in the BHMS Course in Guru Nanak Homoeopathic College, Ludhiana for the session 2013-14 has been cancelled.

2. In brief, the petitioner passed the 12 year High School Diploma from Shivalik Hills Senior Secondary Public School, Jalandhar, which is accredited with Northwest Accreditation Commission, USA [for short "NWAC"].

3. The Association of India Universities [for short "the AIU"] issued an "equivalence certificate" to the petitioner on 11.12.2013 after evaluating his educational credentials that the 12 year High School Diploma passed by him from Shivalik Hills Senior Secondary Public School, Jalandhar, India, which is an accredited school of the NWAC, is equal to 12 year Senior School Certificate of Central Board of Secondary Education, Delhi [for short "CBSE"] or other Boards of India. Respondent No. 1 issued the prospectus for Punjab Ayush Entrance Test (PAET-2013) for admission to Bachelor of Ayurvedic Medicine and Surgery [for short "BAMS"] and Bachelor of Homoeopathic Medicine and Surgery [for short "BHMS"] courses. The eligibility criteria for PAET, laid down in the notification dated 12.5.2011, issued by the Government of Punjab, Department of Medical

Education and Research, which is also part-II of the prospectus issued by respondent No. 1, is as under: -

"Eligibility Criteria for PAET

A for PAET (Common criteria for all Courses)

(i) The candidate should have passed 10+2 with Physics, Chemistry, Biology & English or its equivalent examination and the qualifying examination as a candidate from a recognized institution/University before the time of counseling. The 10+2 or equivalent examination will be as per details given below: -

(a) The higher secondary examination or the India School Certificate Examination which is equivalent to 10+2 Higher Secondary Examination after a period of 12 years study, the last two years of study comprising of Physics, Chemistry and Biology after the introduction of the 10+2+3 years education structure as recommended by the National Committee on Education;

OR

(b) The intermediate examination in Science of an Indian University/Board or other recognized examining body with Physics, Chemistry and Biology which shall include a practical test in these subjects and also English as a compulsory subject;

OR

(c) The pre-professional/pre-medical examination with Physics, Chemistry and Biology, after passing either the higher secondary examination or the pre-university or an equivalent examination. The pre-professional/premedical examination shall include a practical test in Physics, Chemistry and Biology and also English as compulsory subject;

OR

(d) The first year of the three year degree course of a recognized university with Physics, Chemistry and Biology including a practical test in these subjects provided the examination is a "University Examination" and candidate has passed 10+2 with the English at a level not less than a core course;

OR

(e) B.Sc. examination of an Indian University, provided that the candidate has passed the B.Sc. examination with not less than two of the following subjects-Physics, Chemistry and Biology (Botany, Zoology) and further that the candidate has passed the earlier qualifying examination with the following subjects-Physics, Chemistry and Biology and English;

OR

(f) Any other examination which, in scope and standard is found to be equivalent

to the intermediate Science examination of an Indian University/Board, taking Physics, Chemistry and Biology including a practical test in each of these subjects and English."

4. Since the petitioner was having the "equivalence certificate" of the 10+2, therefore, he submitted his application form for appearing in PAET-2013 for admission in BHMS course in the session 2013-14. He was called for counselling on 25.11.2013 and provisionally admitted in Sri Guru Nanak Dev Homoeopathic Medical College, Ludhiana.

5. The case set up by the petitioner is that on 6.6.2014, the respondent No. 2 cancelled the provisional admission of the petitioner on the ground that he is neither a Foreign Indian National nor has acquired/passed 10+2 from a recognised board, as per the approved recognised list of Council of Board of school education in India. It is submitted that as per notification dated 13.3.1995, issued by the Ministry of Human Resources Development (Department of Education), Government of India, it is decided on the recommendation of the Board of Assessment for Educational Qualifications that those foreign qualifications which are recognized/equated by AIU would be treated as recognized for the purpose of employment to posts and services under the Central Government and no separate order for the recognition of such foreign qualifications shall be required to be issued. It is further submitted that Baba Farid University of Health Sciences has also issued a letter dated 25.1.2013 to the Director, National Education Research & Innovation on their application for seeking information as to whether a student, who had passed foreign examination, recognised by Association of Indian Universities, New Delhi as equivalent to 10+2 stage qualification of an Indian Board, is eligible for admission to undergraduate course of their University. It is thus submitted that the order dated 6.6.2014 is illegal and arbitrary especially in view of the "equivalence certificate" issued by AIU on 11.12.2013.

6. Respondents No. 1 and 2 have contested the petition by filing their reply, referring to the provision of the Handbook issued by AIU, in respect of the equivalence of High School Diploma, which is reproduced as under: -

"The Three basic components which pay a vital role in the determination of the equivalence are: -

1. Eligibility requirements
2. Duration of the programme
3. Course curriculum etc.

Till few years back AIU followed the same Policy, but after the increase in students mobility and also the number of universities where from the students have obtained their degrees from various parts of the world, AIU found it difficult to examine each and every case of equivalence and therefore, the equivalence is now established on the basis of the following parameters: -

1. Eligibility requirements
2. Duration of programme
3. Accreditation status of the University(s)

Thus AIU continues to issue equivalence certificate in respect of degrees pursued full time on the campus of the university, of its origin, provided the duration of the course and eligibility requirements remains the same as that of Indian Universities.

AIU facilitates the students by issuing Equivalence certificates to those students who have obtained their degrees by fulfilling the above parameters, from accredited foreign universities.

Degrees which are offered by the foreign accredited universities but are pursued either partly or fully in India are not accorded equivalence by AIU. AIU also does not issue equivalence certificates for the degree which are lesser in duration as compared to the Indian degrees. Similarly no equivalence is issued for diploma (technical/short term) level programmes conducted in various part of the world.

Since the basic eligibility requirements for Bachelor Degree Programme in India is grade 12 OR an equivalent examinations, keeping in view the fact that maximum students who intend to join Indian Universities are for Bachelor Degree Programme.

AIU has already accorded equivalence to the School Level Examinations for a good number of countries of the world so far.

AIU has already accorded equivalence to some of the most popular systems of school education of the world i.e. the British system (GCE, O" & A" level),

American system (High School Diploma), International Baccalaureate awarded by the International Baccalaureate Organization Geneva, Switzerland, French International Baccalaureate, 12 year General Secondary School Certificate Examination conducted in most of the Gulf countries etc. so far.

The following is a list of +2 level qualifications and their nomenclatures recognised by AIU

xiii) *** 12 year High School Diploma awarded by the accredited American Schools/International Schools in other countries following American System of Education.

*** High School Diploma awarded by the American Schools in USA and other parts of the world should be accredited either by the State Departments of Education OR by Six Regional Accrediting Agencies in USA:

1. Middle States Association of Schools and Colleges.
2. New England Association of Schools and Colleges.

3. North Central Association of Schools and Colleges.
4. Northwest Association of Schools and Colleges.
5. Southern Association of Schools and Colleges.
6. Western Association of Schools and Colleges.

AIU does not accept High School Diploma (GED)/other school qualifications pursued through online/Distance mode.

During the last five years the work of equivalence has increased tremendously as the flow of students from foreign countries especially from African, South American and other parts of the world has increased."

7. The arguments raised by learned counsel for respondents No. 1 and 2 is that the "equivalence certificate" can be issued in respect of a degree pursued full time on the campus of the university or of its origin provided the duration of the course and eligibility requirements remains the same as that of the Indian University. It is thus submitted that since petitioner has not acquired 12 year diploma from campus school, therefore, it cannot be recognised.

8. Respondent No. 4 has also filed its reply in which it is averred that AIU has accorded equivalence to the "American System of Education" i.e. to their High School Diploma, which is awarded after completion of 12 year of education. Such schools following American system of Education are required to be accredited by their State Department of Education and those operating outside America are required to be accredited by one of the Regional Accreditation Agencies and the NWAC is one of the six regional accreditation agencies. It is further averred that Shivalik Hills Senior Secondary Public School, Jalandhar is accredited with the NWAC, USA and since the school at Jalandhar is accredited to the NWAC, therefore, the "equivalence certificate" has been issued by AIU. The petitioner has also filed an additional affidavit dated 13.11.2014 highlighting about the other students, who have also secured 12 year High School Diploma from his school and have been given admission by various institutions. An additional affidavit is also filed by respondent No. 4 alleging that there are 535 University level Institutions, who are the members of AIU including respondent No. 1. It is averred that process adopted by AIU till 1998 was as under: -

"Process Adopted by AIU till 1998 -

i A school affiliated to a foreign board used to apply to the AIU for according equivalence to its school pass outs; (Except for the schools following the American System of Education, as per convention);

ii. Upon receipt of such request, the AIU would get its syllabus, systems and processes examined by an expert, except in the case of schools following the American System of Education;

iii. All the cases were placed before the Equivalence Committee of the AIU;

iv. Decision of the Equivalence Committee would be placed for consideration and decision by the standing Committee (Renamed as Governing Council w.e.f. 14.11.2009) of the AIU for its final decision."

9. Thereafter, since 1999, the AIU had decided to recognize the system of education rather than the individual school and the appraisal criteria followed by the AIU for according equivalence in case of the American High School Diploma is laid as follows: -

"Process Adopted by AIU since 1999 -

i The school should be accredited/affiliated to either of the six accreditation agencies;

ii. the duration of the course should be same i.e. 12 year or more as that of corresponding Indian qualifications;

iii. The candidates should have pursued the course through regular mode;

iv. The school should be approved by the respective State Department of Education in India.

v. The candidate must have secured marks/grades to be eligible to be declared pass as per the provisions of the respective Board;

vi. The Equivalence Committee comprises the president, 4 members - 2 from Science/Technology stream and 2 from Humanities/Social Sciences Stream, nominated by the standing Committee of AIU from amongst its members."

10. It is further averred that conditions No. (ii) - (v) are applicable in case of all schools affiliated to any foreign board, and condition number (i) i.e. school should be accredited/affiliated to either of the six accreditation agencies is specific to the schools affiliated to American High School Diploma. This condition was considered necessary as unlike other foreign boards (i.e. the British system of school of education and the International Baccalaureate) where examinations are conducted by a single board or there is no single federal board in case of the American High School Diploma. The NWAC, USA is authorised by the State Department of Education, USA to offer accreditation elsewhere as informed by the Vice President International Services Advanced, USA that the NWAC/Advanced is authorised to accredit schools expanded beyond the national borders and the accredited schools worldwide. It is also averred that within the period 1.4.2013 to 31.3.2014, the AIU issued 2000 equivalence certificates to candidates, who had obtained degrees from foreign countries and the schools affiliated to foreign boards. Out of 2000 equivalence certificates, 123 equivalence certificates were issued to the candidates who had pursued their +2 stage qualification while studying in Indian schools following foreign systems of education and out of above 122 candidates, 88 equivalence certificates were issued to candidates who had obtained American High School Diploma from schools in India following the American System of School Education. Respondent

No. 4 has also attached a list containing name of the candidates, E.C. No. , name of school/board and certificate.

11. I have heard learned counsel for the parties and perused the available record.

12. The only issue involved in this case is as to whether respondent No. 1 is justified in cancelling the admission of the petitioner on the ground that the petitioner has not acquired 10+2 qualification from a recognised board. It is not disputed that the petitioner has passed American High School Diploma as prescribed by the NWAC which has been found equal to the 12 year Senior Secondary certificate of the CBSE by AIU. Respondents No. 1 and 2 has raised an objection to the diploma of the petitioner on the ground that it has not been obtained by him while pursuing full time campus studies of the University of its Origin meaning thereby that the petitioner had not studied in the University of U.S. while pursuing the said diploma of 12 years. However, in the information brochure of AIU, provided to the Court during the course of hearing, the list of +2 level qualifications is also mentioned in which 12 year High School Diploma from accredited schools of USA is recognised by AIU provided that the 12 year High School Diploma awarded by the accredited American Schools/International schools in other countries has followed American system of Education. It further provides that High School Diploma awarded by the American Schools in USA and other parts of the world should be accredited either by the State Departments of Education OR by six regional accrediting agencies in USA, which are as follows: -

1. Middle States Association of Schools and Colleges.
2. New England Association of Schools and Colleges.
3. North Central Association of Schools and Colleges.
4. Northwest Association of Schools and Colleges.
5. Southern Association of Schools and Colleges.
6. Western Association of Schools and Colleges.

13. It however also provides that AIU does not accept High School Diploma (GED)/other school qualifications pursued through online/Distance mode.

14. Insofar as the present case is concerned, the petitioner has neither pursued his studies from online nor correspondence/distance mode rather he has pursued his studies of the High School Diploma awarded by American School in USA from a regular school in India while attending the school and has thus rightly been recognised by AIU as the said diploma awarded by the NWAC of USA has a accreditation of the State Departments of Education of USA.

15. Thus, in view of the aforesaid discussion, I am of the considered opinion that the impugned order Annexure P-5 passed by respondent No. 1 is patently illegal and erroneous and the same is hereby quashed.