
(2019) 01 RAJ CK 0012
In the Rajasthan High Court
Case No : Civil Writ No. 18060 Of 2018

Apurva Mishra

APPELLANT

Vs

Registrar And Ors

RESPONDENT

Date of Decision : 02-01-2019

Acts Referred:

University Act, 2003 — Section 48
Constitution Of India, 1950 — Article 226

Citation : (2019) 01 RAJ CK 0012

Hon'ble Judges : Sangeet Lodha, J

Bench : Single Bench

Advocate : Sanjeet Purohit, Apurava Mathur, D.D. Chitlangi

Final Decision : Dismissed

Judgement

1. By way of this writ petition, the petitioner has questioned the provisional list issued by the respondent-Maharaja Ganga Singh University, Bikaner, for award of gold medal inter alia for B.Sc. Part III Examination for the year 2017. The petitioner has sought further directions to the respondents to issue revised list while including the name of the petitioner for award of Gold Medal for B.Sc. Part III Examination 2017, being highest scorer as per the revised mark-sheet issued to her.

2. The facts relevant are that the petitioner appeared in B.Sc. Part III Examination 2017, the result whereof was declared by the respondent University and the mark-sheet was issued to the petitioner, wherein she was shown to have scored 41 and 45 marks in Chemistry I and II papers respectively. However, in Chemistry III paper she was shown to have scored only 7 marks out of 50. The petitioner applied for retotalling as also for revaluation. After revaluation, revised mark sheet was issued to the petitioner wherein she was shown to have scored 31 marks in Chemistry III paper. The petitioner was not satisfied with the marks scored as shown in the revised mark sheet and therefore, she applied for certified copy of the evaluated answer sheets under the Right to Information Act.

Instead of issuing the certified copy of the answer sheet applied for, the respondents vide communication dated 24.10.17 informed the petitioner that there exists difference in total of the marks obtained by the petitioner in the said subject and therefore, she may send back the original mark sheet issued by the University. The petitioner apprised the respondent University that the original mark sheet was deposited by her while applying for the revaluation of answer sheet and thus, the same is not available with her. Later the respondent University issued a revised mark sheet wherein the petitioner was shown to have scored 41 marks in Chemistry III paper. The petitioner secured 612 marks out of 675 marks in B.Sc. Part III Examination. The total marks obtained by the petitioner in B.Sc. Three Year Degree Course comes to 1779 out of 2025 marks.

3. Precisely, The grievance of the petitioner is that though she has secured highest marks, the name of one Shri Lavlita, who has secured 1772 marks, has been included in the provisional list of Gold Medalist of Examination 2017, for B.Sc. Three Year Degree Course.

4. A reply to the writ petition has been filed on behalf of the respondents taking the stand that eligibility for Gold Medal is not decided solely on the basis of scoring of highest marks. Besides the highest marks, other eligibility conditions are also required to be fulfilled. It is submitted that as per Ordinance 122A and the notification No. F.13(1) Acad-I/MDSU/2011/19328-627 dated 11.5.11 issued by the M.D.S. University, Ajmer which is operative in the respondent-University as per Section 48 of the University Act, 2003 for award of Gold Medal for Bachelor's Degree Examination, the candidate must have passed the examination in First Division in first attempt and also must have passed all the papers i.e. First Year, Second Year and Final Year Examination in consecutive years. However, the petitioner could not pass her First Year Examination in first attempt inasmuch as, though she passed the optional subjects, but did not appear in compulsory English Examination and therefore, she was not entitled for award of Gold Medal.

5. By way of rejoinder, while drawing the attention of the court to the syllabus, it is submitted on behalf of the petitioner that the marks secured in General Hindi and General English and Computer Application are not counted for awarding the division to a candidate and the candidate is entitled to clear compulsory paper in three chances and therefore, nothing turns on the question that the petitioner absented in General English Examination during her First Year Examination and passed the said paper in the next year.

6. Learned counsel appearing for the petitioner reiterating the stand taken in the writ petition and the rejoinder submitted that the petitioner having secured highest marks i.e. 1779 marks as against 1772 marks obtained by Miss Lavlita, she was entitled to be included in the list of Gold Medalist for B.Sc. Three Year Degree Course. It is submitted that when the marks obtained in compulsory subject are not counted for the purpose of awarding division to a candidate, failure to pass the same alongwith optional papers in First Year Examination

cannot be made a ground to deny the Gold Medal.

7. On the other hand, learned counsel appearing for the respondent relying upon the provisions of Ordinance 122A and the notification referred supra, submitted that the petitioner having failed to pass English Compulsory Examination in the first attempt while appearing in First Year Examination, she is not eligible for award of Gold Medal and thus, non inclusion of her name in the provisional list published for award of Gold Medal for B.Sc. Three Year Degree Course is justified and does not warrant any interference by this court in exercise of its extra ordinary jurisdiction under Article 226 of the Constitution of India.

8. Indisputably, as per the syllabus, a candidate appearing in B.Sc. Part I Examination besides optional subjects is required to pass English/Hindi Compulsory Examination. It is not disputed that while appearing in B.Sc.Part I Examination, the petitioner did not appear in English Compulsory Examination and therefore, her B.Sc. Part I Examination result was declared as 'POSO' (passed in optional subjects only) and her overall result on account of her non appearance in English Compulsory Examination was declared as 'FAIL'. In this regard, the copy of Tabulation Register placed on record by the respondents as Annexure R/2 is self explanatory. It is true that the marks secured in the paper of General Hindi or General English and Computer Application are not counted in awarding the division to a candidate and the candidate is entitled to clear compulsory paper in three chances. But the fact remains that the candidate is required to pass the compulsory paper and non appearance or absence in examination of compulsory paper will be counted a chance. Thus, it cannot be disputed that the petitioner has not passed English Compulsory Examination in the first attempt. In this view of the matter, the action of the respondent-University in not considering the petitioner eligible for award of Gold Medal is in conformity with the provisions of Ordinance 122A, which specifically provides the passing of the examination by the candidate in First Division in the first attempt as condition precedent for award of Gold Medal. Further, in case of Three Year Degree Course Examination, the candidate is required to pass all the parts i.e. First Year, Second Year and Final Year Examination in the first attempt and in consecutive years. Thus, the petitioner who has failed to pass the First Year Examination in first attempt on account of her not appearing in English Compulsory Examination while appearing in B.Sc. Part I Examination, has rightly been held ineligible for grant of Gold Medal for B.Sc. Three Year Degree Course.

9. In the result, the petition fails, it is hereby dismissed. No order as to costs.