

(2013) 12 AP CK 0117
In the Andhra Pradesh High Court
Case No : Writ Petition No. 37116 of 2012

B. Chakradhari

APPELLANT

Vs

Potti Sreeramulu Telugu University and Others

RESPONDENT

Date of Decision : 16-12-2013

Acts Referred:

Citation : (2014) 1 ALT 419

Hon'ble Judges : A. Rajasheker Reddy, J

Bench : Single Bench

Advocate : Srinivas Polavarapu, for the Appellant; S.M. Subhan for Telugu University for Respondent Nos. 1 to 4, Mr. M.A.K. Mukheed, Counsel for respondent No. 5 and Mr. M. Roopender, Counsel, for the Respondent

Final Decision : Dismissed

Judgement

A. Rajasheker Reddy, J.—This writ petition is filed seeking writ of mandamus declaring the action of the respondents 1 to 4 in selecting the respondents 5 and 6 to the course of Ph.D (Journalism) for the Academic year 2010-11 as illegal and arbitrary and opposed to the procedure contemplated under the prospectus issued by them for selection and consequently set aside the selection of the respondents 5 and 6 for the said Course and direct the respondents 1 to 4 to provide a seat to the petitioner in the Ph.D (Journalism) course for the academic year 2010-11. Facts which are necessary for disposal of the writ petition are as follows:

The case of the petitioner is that the respondent-University issued prospectus for selection of the candidates to the Ph.D(Journalism) course for the academic year 2010-11. The selections took place in the year 2012.

2. It is stated that 23 candidates are called for the interview including the petitioner herein. Out of the 23 candidates, 13 candidates possessed M.Phil qualifications and 10 candidates got through the entrance examination with M.C.J qualification. Challenging the selection of Ajitha and Umamaheshwari, the

petitioner filed W.P. No. 20661 of 2012. While the said writ petition was pending, the 3rd respondent addressed a letter dated 02.11.2012 to the 4th respondent intimating him that out of 12 seats, only 11 candidates are filled up and one seat was vacant due to non-joining of one B. Prasad, who is standing at Sl. No. 2 in the merit list and in that vacant seat, the 5th respondent was accommodated instead of the petitioner. That seat is in the open category and the same should have been filled by the next merit candidate only. The petitioner belongs to OC category and standing in the merit list above the respondents 5 and 6. The petitioner was placed at serial No. 5 with 43 marks and whereas the 5th respondent got 42.5 marks only. Hence, the respondents 1 to 4 ought to have accommodated the petitioner in the un-filled one seat. In the letter dated 02.11.2012 of the 3rd respondent, it was stated that an additional seat was said to have been sanctioned by the 1st respondent in his proceedings dated 02.11.2012 and in that additional seat the 6th respondent was accommodated who got only 25.5 marks. It is also stated that the respondents 1 to 4 have not followed the roster points. It is further stated that in the additional seat, the petitioner could have been accommodated. Therefore, the action of the respondents 1 to 4 in taking the respondents 5 and 6 in Ph.D (Journalism) Course is illegal and arbitrary.

3. The 2nd respondent filed counter admitting the issuance of notification for admission into Ph.D (Journalism) Course. It is stated that after conducting written examination and valuation of answer scripts it was found that the required number of candidates against the seats reserved for SC & ST and Women under Open Category were not qualified with 30% marks and 40% marks. It was, therefore, recommended in the meeting of Heads and Deans of the University to reduce the cut off marks to enable the required number of candidates to qualify themselves for interviews for the reserved seats from 40% to 30% and 30% to 20% for Open Category and BCs and SCs & STs respectively. Thereupon, Ms. Ajitha with 33 marks under Open Category and Ms. Uma Maheswari (SC category) with 22 marks called for interview and finally they were allotted seats under women category. It is further stated that even before admission list was finalized, on 04.07.2012 the petitioner along with some other students barged into the Vice Chancellor's Chambers and shouted slogans and abused the Vice-Chancellor, Registrar, Professors and other teachers involved in the admission process with filthy language. Thereafter, the teachers and the staff complained the same to the Vice-Chancellor about the petitioner's indecent behaviour using unprintable language and later the University was forced to file a complaint on 04.07.2012 with the police. Basing on the same, the Nampally Police Station registered a case in Crime No. 140/12 under Sections 341 and 506 IPC and the same is pending with the police for investigation.

4. It is further stated that the petitioner is an old student of the University studied MCJ for the academic year 2006-07 and the course was completed on 01.08.2008 and he also admitted in M.Phil for the year 2008-09 and the course was completed on 24.08.2010. The petitioner being an old student wanted to

dominate the staff and used to create nuisance in the Administrative department of the university whenever he visits the University. The petitioner is working as reporter in a daily news paper and gainfully employed and he wants Ph.D seat at any cost in the University by depriving truly needy student. The University by considering the candidature of a Physically Handicapped Candidate created a supernumerary seat and was allotted to him, which is in order.

5. It is further submitted that a Committee was also constituted with four Professors, one Deputy Registrar of the University to look into the issue. After having gone through all the material available, the committee recommended to bar the petitioner for admission into the University, pending enquiry. Thereupon, an Enquiry Committee was constituted with two Professors of other Universities, one from Osmania University and another from Dr. B.R Ambedkar Open University to enquire into the matter. The Convener of the said Committee informed the petitioner and another to appear before them vide letter 27.09.2012 and also over phone by the Convener. But the petitioner and the other chose not to appear before the Committee. The Committee based on the available information, vide report dated 28.09.2012 recommended to implement the recommendation made by the disciplinary committee, on the basis of which, admission to the petitioner was denied.

6. It is further stated that out of the 12 candidates selected, Sri B. Prasad, who stood in serial No. 2 in the merit list in the open category did not join. Therefore, the Convener for Ph.D admissions committee in his letter dated 02.11.2012 intimated the -Dean, School of Social and other Sciences to allot the seat to the 5th respondent as per the orders of the Vice-Chancellor. Accordingly, the vacancy caused was filled up by allotting the seat to the 5th respondent who stood next to the petitioner in the waiting list. The petitioner has not been given admission as the decision was taken by the University, as recommended by the Enquiry Committee against his candidature.

7. The University has created one supernumerary seat as mentioned in its prospectus. The 6th respondent was selected against the additional-seat under PHC quota and there is no loss to the petitioner with the 13th seat.

8. It is further stated that according to Section 17 of the Potti Sreeramulu Telugu University Act (Act No. 27 of 1985) (for short "the Act"), the Academic Senate is the Principal Academic Body and exercises powers over all the academic policies of the University. It is further stated that in the prospectus 3% reservation was provided for the Physically Handicapped candidates, For the purpose of reservation of Physically Handicapped candidates, the Ph.D courses in all the faculties are treated as one unit. The 6th respondent was the only candidate who applied for Ph.D in the category of PHCs and he applied for Ph.D in Journalism. Therefore, he was allotted the seat under this category. According to Section 10(3) of the Act, the Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University and shall report the matter to such authority the action taken

by him. In exercise of the above powers, the Vice Chancellor has ordered for creation of supernumerary seat for allotment to PHC candidate. It is further stated that the University, did not prompt the petitioner to withdraw W.P. No. 20661 of 2012 and he did it on his own accord. He is not entitled to a seat in the Ph. D in Journalism Course. However, the final phase of the selection was over and all the seats were filled in the said course.

9. The 2nd respondent filed additional counter stating that because of the conduct of the petitioner, a criminal case was registered against him and the enquiry committee reported that he should be barred from giving admission in the said Course. Had he not resorted to this type of behaviour, he would have got the seat in the order of merit in the seat not filled up due to non-joining of 2nd candidate of the merit list.

10. It is submitted that the petitioner submitted false information that he secured 71.10% of marks in MCJ, whereas he actually got only 61.67% marks. This reveals that he is not only in disciplined but also mischievous and unreliable. It is also stated that the admissions to the Ph.D Course are closed and after the closure of admissions, if a candidate discontinues such seat will be filled up in the next academic year. It is further stated that as per Section 53 of the Act, a Disciplinary Committee or an Examination Committee may, by a resolution, remove any student or a candidate for any examination from the rolls of the University. The enquiry committee on the basis of the material available, endorsed the recommendations of the Disciplinary Committee and therefore, he was denied admission into Ph.D Course. As such, he prayed to dismiss the writ petition.

11. The 6th respondent filed counter stating that he is physically handicapped person having 50% disability and hailed from poor family. He was given admission in Ph.D (Journalism), but the petitioner intentionally filed writ petition and obtained stay orders.

12. The petitioner filed reply denying all the averments made in the counter and additional counter of the 2nd respondent stating that the complaint dated 04.07.2012 is filed as counter blast to the complaint filed by the petitioner the same day. He also refused to receive notice to attend enquiry on 28.09.2012. He also contends that no notice was issued at any point of time. It is further stated that Smt. Umamaheshwar, to whom a seat was provided in the Open Category left the course and thus another seat fell vacant. Now, without disturbing any candidate to whom the seats were given, the respondent-University can accommodate the petitioner even in the left over seat.

13. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent-University.

14. The only ground on which the petitioner was denied admission is that even before the admission list was finalized, on 04.07.2012, the petitioner along with some other students barged into the Vice-Chancellor's chambers and shouted

slogans and abused the Vice-Chancellor, Registrar, Professors and other teachers involved in the admission process with filthy language. With this, the University filed complaints dated 04.07.2012 and 10.07.2012, basing on which, the Police, Nampally, registered FIR in Crime No. 140/12 u/s 341 and 506 IPC against the petitioner. Thereafter, the matter was referred to the Disciplinary Committee consisting of two Professors of other Universities, one from Osmania University and another from Dr. BR Ambedkar Open University to enquire into the matter. The Enquiry Committee, basing on the available information, vide report dated 28.09.2012 recommended to implement the recommendation made by the disciplinary committee. Basing on which, the respondent-University denied admission to the petitioner into the Ph.D (Journalism) Course.

15. It is pertinent to note that according to Section 6(2)(c) of the Act (Act No. 27 of 1985 as amended), the University shall not be required to admit any person or retain any student whose conduct is prejudicial to the interest of the University or the rights and privileges of other students and teachers. As the 5th respondent was next to the petitioner in the merit list, he was allotted the seat for which, the respondent-University cannot be found fault with it.

16. Admittedly, the 6th respondent is physically handicapped person and the Vice-Chancellor by exercising powers u/s 10(3) of the Act, created supernumerary seat and since the 6th respondent was only physically handicapped person applied for Ph.D (Journalism) Course, he was allotted the said seat and that the petitioner cannot have any grievance against him.

17. In this case, it is to be seen that the Professors, Teachers and other staff members gave complaint against the petitioner and the Disciplinary Committee recommended for denial of admission into Ph.D (Journalism) course and basing on the same, the University has denied admission to the petitioner. In the additional counter of the 2nd respondent, it is further stated that there are no vacancies notified for the academic year 2011-12 in the department of Journalism and as the seats notified for the academic years 2010-11 and 2012-13 were filled up. The admission process for the both the academic years was closed on 09.11.2012 and 18.05.2013 respectively. Therefore, it is clear that the petitioner on his own making, was denied seat in the Ph.D (Journalism) and that the petitioner unnecessarily obtained stay against the 6th respondent, who has been selected under Physically Handicapped quota. When the counsel for the respondent was asked to obtain instructions as to whether any vacant seats are available to accommodate petitioner, on instructions, he stated that all the seats are filled up. In view of the facts and circumstances and the plea raised by the 2nd respondent in the counter and additional counter affidavits and the counter affidavit of the 6th respondent, I do not see any reason to interfere with the selection and allotment of seats of Ph.D (Journalism) Course to the respondents 5 and 6 by exercising extraordinary equitable jurisdiction under Article 226 of the Constitution of India.

Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.