

(1981) 12 RAJ CK 0013
In the Rajasthan High Court
Case No : Civil Writ Petition No. 736/81

Bhag Singh Gill

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 14-12-1981

Acts Referred:

Citation : (1981) WLN 352

Hon'ble Judges : M.B. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.B. Sharma, J.—In this writ petition a short question of interpretation of Ordinance 169-E of the University of Rajasthan Ordinances, 1977 (hereinafter referred to as the "Ordinance") is involved. Ordinance 169-E reads as under:

Ordinance 169-E. A candidate who has passed his First Year/Second Year T.D.C. Examination (Arts), Science/Commerce/of the Honours Part I/Honours Part II examination or the Previous examination for M.A./M. SC./M. Com, conducted by the University may be permitted if he desires to improve his performance, to reappear at the same examination in the same subject (s) in the immediately following year according to the syllabus in force on the conditions noted below. Such a candidate shall not rejoin a college for the purpose:

(i) He shall give an undertaking in writing that his preceding examination be treated to have been cancelled.

(ii) He will be required to re-appear in the theory as well as practical examinations wherever prescribed; and

(iii) In the case of Ex-Students who re-appear at the Examination the sessional marks obtained by them at the examination in the immediately preceding year shall be taken into account.

A candidate who desires to re-appear at the examination under the above

provision, must submit his application on the prescribed form together with the original marks-sheet of passing the preceding examination. The application shall be accompanied by the fee prescribed for the examination together with an application fee of Rs. 10/- in the case of non-collegiate candidates and Rs. 5/- in the case of ex-students.

The application form shall be forwarded/countersigned by the same Officer who had forwarded it at his last appearance at the examination provided that a candidate who had passed his last examination as a non-collegiate candidate shall submit his application form directly to the Registrar along with a registration fee of Rs. 5/- only in addition to the fee mentioned above.

2. The petitioner Bhagsingh passed his Higher Secondary Examination in the year 1978 in second division, Thereafter he sought admission in first year T.D.C. Science in G.V. College, Sangaria and appeared in the first year T.D.C. in 1979 and secured 59% marks. In order to improve the division, the petitioner again appeared in the first year T.D.C. Science examination in the year 1980 and again successfully passed the examination but secured about 58% marks. He was still not satisfied with his performance and applied the First Year T.D.C. Science examination in the year 1981 in order to improve the division. He was not allowed to appear in the examination under the aforesaid Ordinance 169-E. He was informed by order dated February 14, 1981 that a candidate who has appeared at the first year T.D.C. Science examination, 1980 under Ordinance 169-E is not eligible to appear in the first year T.D.C. Science examination 1981 in case he was declared passed the first year T.D.C. examination, 1980.

3. The grievance of the petitioner is that the Vice Chancellor had permitted him to, appear in the examination but still" he was not allowed to appear. His case is that Ordinance 169E does not allow improving of the; division only once and under the aforesaid Ordinance he can go on improving this division as many times as he desires. In the reply filed by the non-petitioners, it is stated that the petitioner in his application form concealed -the fact that he had appeared in the first year TDC. Science examination, held in the year 1980 which was the immediate preceding examination and in para 4 of the application form he only made a reference to First Year TDC. Science Examination, 1979. He also did not comply with the conditions laid down in Ordinance 169-E. The Vice Chancellor only allowed the petitioner on his application dated March 12, 1981 to appear as per rule"s and left it to the subordinate authorities to, examine the "case and only allow the " petitioner to appear in the examination if the rules so permit.

4. I have heard the learned Counsel for the parties. Merely because the Vice Chancellor ordered that the petitioner should be allowed to appear as per rules, it cannot be said that the petitioner was bound to be allowed to one more chance to improve his division under Ordinance 169-E of the Ordinances. I have already extracted the ordinance 169-E above: A candidate who has passed his First Year T.D.C. Science examination may be permitted if he desires to improve his performance to appear at the same examination in the same subjects in

immediately following year according to the syllabus in force on the conditions noted in the Ordinance 169-E. He has to give an undertaking in writing that the preceding examination be treated to have been cancelled. Admittedly no undertaking in writing as required under Ordinance 169-E was given by the petitioner. The words "immediately following" in Ordinance 169-E means that only one chance is available to the candidate to improve his division. Under the aforesaid Ordinance, more than one chance cannot be available to a student to improve his division. This is the interpretation which is being all through placed by the University Authorities on Ordinance 169-E. In *Principal, Patna College, Patna and Others Vs. Kalyan Srinivas Raman*, it has been observed that where the question involved is one of interpreting a regulation framed by the Academic Council of a University, the High Court should ordinarily be reluctant to issue a writ of certiorari where it is plain that the regulation in question is capable of two constructions, and it would generally not be expedient for the High Court to reverse a decision of the educational authorities on the ground that the construction placed by such authorities on the relevant regulation appears to the High Court less reasonable than the alternative construction " which it is pleased to accept. I have held above that the use of, the words "immediately following in Ordinance 169-E shows that the candidate is only entitled to improve his division once after having passed his first year T.D.C. examination. Even if two interpretations of the aforesaid Ordinance would have been therefore, looking to the fact that the University had interpreted the aforesaid Ordinance in a manner as to limit only one chance to the candidate to improve his division, this Court in exercise of certiorari jurisdiction would not interfere.

5. I do not find any force in this writ petition and it is dismissed. No order as to costs.