

(2016) 08 KAR CK 0093

In the Karnataka High Court

Case No : Writ Petition No. 10458 of 2016 (EDN AD)

Bhargav B.L.

APPELLANT

Vs

Dr. Ram Manohar Lohia Law College

RESPONDENT

Date of Decision : 29-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Pre-University Education (Academic, Registration, Administration and Grant-in-Aid etc.) Rules, 2006 — Rule 2, Rule 2(14), Rule 2(15)
Karnataka State Law Universities Regulations - Reg

Citation : (2017) 2 AirKarR 745 : (2017) ILRKarnataka 180 : (2017) 1 KantLJ 190

Hon'ble Judges : Raghvendra S. Chauhak, J.

Bench : Single Bench

Advocate : Ganapathi Bhat, Advocate, for the Respondent No. 2; Sriyuths C.N. Mahadeshwam, Advocate, for the Respondent No. 1; Geethadevi M.P, Advocate, for the Respondent No. 3; Nataraj G, Advocate, for the Respondent No. 4; Sri Rajadithya Sadasivan, Advocate, for t

Final Decision : Allowed

Judgement

Raghvendra S. Chauhak, J. - The petitioner has applied seeking admission to 5 years B.A., LL.B. Course with any of the affiliated colleges of Karnataka State Law University. Since the last date for submission of the admission fee is 31-8-2016, this case is being decided at this stage itself.

2. The petitioner has submitted an application for amendment of the writ petition. According to the learned Counsel for the petitioner, the petitioner had prayed that his application should be considered by the respondents. However, during the pendency of the present petition, the respondent 2 has issued a communication dated 13-8-2015, whereby the petitioner's application has been rejected. Therefore, the petitioner needs to amend the present writ petition in order to challenge the communication dated 13-8-2015.

3. Since, the communication dated 13-8-2015 is a subsequent development of the case, since the said communication adversely affects the petitioner's right, and since no-objection has been raised for the proposed amendment, the application for amending the writ petition is allowed.

4. The petitioner has also filed an application for dispensing with the submission of the original copy of the communication dated 13-8-2015. According to the petitioner, so far, he has not received a copy of the said communication. However, on the last date viz., on 26-8-2016, the said communication was produced by the learned Counsel for the respondent 2. Since the said communication has already been taken by this Court on judicial record, the learned Counsel for the petitioner has prayed that the submission of the original communication may be dispensed with by this Court.

5. Since the communication dated 13-8-2015 is already part of the judicial record, the petitioner need not submit the original copy of the said communication before this Court.

6. Learned Counsel for respondent 2 has filed written objections and the same shall be taken on record.

7. With the consent of both the learned Counsel for the parties, this case is being decided at this juncture itself.

8. Briefly the facts of the case are that in 2005 the petitioner had completed his SSLC through regular schooling. Subsequently, in 2006 he completed his first year of Pre-University Course with BNES Pre-University College. However, for the second year PUC Course, he appeared as a private student and in 2011 passed his second year PUC. Desirous of seeking admission in the 5 years B.A., LL.B. Course at Dr. Ram Manohar Lohia Law College, the petitioner submitted his application for admission at the said college, However, the college informed him that his eligibility to seek admission is doubtful, as he had privately completed the second year Pre-University Examination. Therefore, the petitioner's application was kept pending. Subsequently, by communication dated 13-8-2015, the petitioner has been informed that his application cannot be accepted considering the fact that his second year PUC was completed privately. Hence, this petition before this High Court.

9. Mr. Rajadithya Sadasivan, the learned Counsel for the petitioner, has pleaded that Regulation 7 of the Karnataka State Law Universities Regulation ("Regulations" for short), governing 5 years B.A., LL.B. Degree Course deals with eligibility criteria for admission. According to Regulation 7 of the Regulations, the applicant has to successfully complete PUC or Senior Secondary School Course from a recognised University of India, or outside, or from Senior Secondary Board, or equivalent Board. The said Regulation 7 of the Regulations does not make a distinction, between PUC completed from a recognised college, or done privately. Since the petitioner has completed his second year of PUC and his completion has been recognised by the Government of Karnataka, Department of

Pre-University Education, therefore under Regulation 7 of the Regulations, the petitioner is deemed to have "successfully completed his PUC". Therefore, respondent 2 is unjustified in rejecting the petitioner's candidacy for admission, ostensibly on the ground that he had completed his second year of PUC privately. Therefore he is ineligible for admission to the 5 years B.A., LL.B. Course.

Secondly, the learned Counsel has relied on the Rules of Legal Education, 2008 (the "Rules" for short) promulgated by the Bar Council of India. Rule 5 of the Rules prescribes the eligibility criteria for admission to the 5 years LL.B. Course. It is identical to Regulation 7 of the Regulations. It further provides that: "those candidates who have obtained +2 Higher Secondary Certificate after prosecuting their study in distance or correspondence method, shall also be considered as eligible for admission in the integrated 5 years course". Thus, according to the learned Counsel, even if the petitioner had completed his second year of PUC privately, he would be eligible for admission to the 5 years B.A., LL.B. Course under the Rules. Thus, respondent 2 is unjustified in rejecting the petitioner's candidacy for admission to the said course.

10. On the other hand, Mr. Ganapathi Bhat, the learned Counsel for respondent 2, has vehemently contended that the Karnataka Pre-University Education (Academic, Registration, Administration and Grant-in-Aid etc.) Rules, 2006 ("the Rules of 2006" for short) clearly state that a student would not be permitted to change his subject from first year to the second year, and if such a change is sought for, only a limited change is permissible. However, the petitioner had studied science subjects in the first year of his PUC as a regular student, but had shifted to the humanities subjects such as History, Economics, Sociology and Political Science in the second year of his PUC as a private student. Since, the change of subjects was not in accordance with Rule 10 of the Rules of 2006, it cannot be said that the petitioner has "successfully completed his PUC course". Thus, respondent 2 was justified in rejecting the petitioner's application for admission. Therefore, the learned Counsel has supported the impugned communication dated 13-8-2016.

11. In rejoinder, the learned Counsel for the petitioner submits that Rules of 2006 are inapplicable to candidates who have done their PUC privately. The Rules govern only "students" who have completed their PUC from PUC Colleges through a regular course of study. Therefore, the condition imposed by Rule 10 of the Rules of 2006 cannot be read against the petitioner. Moreover, there is no bar in any law which prevents a student from changing his subjects from first year of PUC to second year of PUC, in case he were to complete his second year of PUC privately. Since the petitioner was weak in science subjects, the petitioner was justified in switching from the Science subjects to the Arts subjects. Furthermore, neither regulation of the Universities, nor Rules promulgated by the Bar Council, prohibit a person from changing his course of studies between the first year, and the second year of PUC. Therefore, the ban cannot be read against the petitioner. Hence, he cannot be disqualified from admission into the 5 years

B.A., LL.B., Course.

12. Heard the learned Counsel for the parties and perused the impugned communication.

13. A perusal of the Rules of 2006 clearly reveal that the said Rules are applicable to Pre-University Colleges, or Government Pre-University Colleges, or Private Unaided Pre-University Colleges, or Private Aided Pre-University Colleges. Therefore, the Rules govern "the students" who are studying in the four educational institutions mentioned above. The Rules do not govern persons who have passed the PUC course in distance education i.e., privately. This is obvious from the fact that the title of the Rules is "Karnataka Pre-University Education (Academic, Registration, Administration and Grant-in-Aid etc.) Rules, 2006". Moreover Rule 2 of the Rules 2006, containing the definition clause, defines the words "Aided College", "Government Pre-University College", "Pre-University College", "Private Unaided Pre-University College" and "Private Aided Pre-University College". Moreover, Rule 2(14) of the Rules of 2006, defines the words "Student Strength" as meaning "the aggregate of the number of students who would have actually appeared and written the II Pre-University examination in a subject in a college in the three consecutive annual examinations proceeding the relevant year, increased by ten per cent provided that the student strength in the first year Pre-University class of admission in a new college shall be computed by actual head count of the students who have produced their SSLC or 10th standard pass certificates and transfer certificates and present during the working hours in a class room when such head count is taken". Similarly, the word "Subject" is defined in Rule 2(15) of the Rules of 2006 as meaning "a subject of study specified in Schedule II and taught in a Pre-University College in accordance with the syllabus as may be specified by the department of notification".

(emphasis supplied)

14. Thus a perusal of the definition clauses and the title of the Rules of 2006, clearly establish the fact that the said Rules are applicable only to students studying in colleges, and not to those who have completed their PUC course privately through distance education. Therefore, the contentions raised by the learned Counsel for the respondent that the petitioner cannot be permitted to change his subject from science to Arts between the first year and second year of PUC as there is a bar to such a change in Rule 10 of the Rules of 2006 is clearly unacceptable. For Rule 10 of the Rules of 2006 is inapplicable to the students who have completed their PUC course privately.

15. On the other hand, Regulation 7 of the Regulations is as under:

"7. Eligibility Criteria for Admission.-

(a) An applicant who has successfully completed Pre-University Course or Senior Secondary School Course (" + 2") or equivalent such as (11+1, "A" level in

Senior School Leaving Certificate Course) from a recognised University of India or outside or from Senior Secondary Board or equivalent, constituted or recognised by the Union or by the State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the course."

Rule 5 of the Rules of Legal Education, 2008:

"Eligibility for admission of reads as under:

(a)

(b) Integrated Degree Program: An applicant who has successfully completed Senior Secondary School Course (" + 2") or equivalent (such as 11 + 1, "A" level in Senior School Leaving certificate course) from a recognised University of India or outside or from a Senior Secondary Board or equivalent, constituted a recognised by the Union or by a State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the program of the Centres of Legal Education to obtain the integrated degree in law with a degree in any other subject as the first degree from the University whose such a degree in law is recognised by the Bar Council of India for the purpose of enrolment:

Provided that applicants who have obtained +2 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondent method shall also be considered as eligible for admission in the Integrated Five Years Course or three years" LL.B. Course, as the case may be.

Explanation.-The applicants who have obtained 10+2 or graduation/post-graduation through open Universities system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the Law Courses."

16. A perusal of these two provisions would clearly reveal that they are almost identical in their phraseology. Both the provisions use the words "an applicant who has successfully completed Pre-University Course". However, neither of the provisions make it mandatory that the Pre-University Course must be completed after regular studies in a college. The first proviso in fact permits an applicant who has prosecuted his studies in distance or correspondent method, to be eligible for admission. It is only those applicants who have obtained 10 + 2 certificate from Open University system, who are declared to be ineligible for admission to 5 years B.A., LL.B Course. However, the petitioner has not completed his second year of PUC from an Open-University, but had completed it privately. Moreover, the petitioner has been certified from the Department of Pre-University Education and the certificate granted is recognised by the Government of Karnataka. Therefore, the petitioner would not come within the bar contained

in the second proviso mentioned above. Hence, the petitioner is eligible for admission to the 5 years B.A., LL.B. Course in the light of the Regulations and Rules. Therefore, respondent 2 is not justified in rejecting the petitioner's case for admission to the said 5 years Course ostensibly on the ground that the petitioner had completed his second year PUC course privately.

17. Due to shortage of time, this Court directs respondent 2 to accept the admission fee, if the petitioner submits the said amount on or before the last date viz., 31-8-2016. This Court further directs respondent 2 to grant admission to the petitioner, provided the petitioner meets all the other eligibility requirements as laid down by respondent 2. However, respondent 2 cannot reject the petitioner's application for admission only on the ground that he has completed second year Pre-University Course privately.

18. Registrar - Judicial is directed to immediately convey the operative portion of the order to Dr. Ram Manohar Lohia Law College and to the Karnataka Law University for their information.

19. The petition is, hereby, allowed.