

(2000) 11 OHC CK 0022
In the Orissa High Court
Case No : O.J.C. No. 8318 of 2000

Deep Kumar Thadani

APPELLANT

Vs

Chairman, Admission Sub-Committee, Joint Entrance
Examination (K and M) and Others

RESPONDENT

Date of Decision : 15-11-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2001 Ori 61 : (2001) 1 OLR 28

Hon'ble Judges : L. Mohapatra, J

Bench : Single Bench

Advocate : Rajib Rath and S.P. Misra, for the Appellant; R.K. Mohapatra, (for Nos. 1 and 2) and R.K. Dash, Ashok Mishra, D.R. Swain, K. Kar and B. Swain (for No. 3), for the Respondent

Judgement

L. Mohapatra, J.—The petitioner in this writ application has challenged the action of the opposite parties 1 and 2 in denying him admission into Architecture Course in Government Colleges and has prayed for a direction to the said opposite parties to admit the petitioner in Architecture course in any of the Government colleges.

2. Case of the petitioner is that he passed All India Secondary School Examination in the year 1998 from D. A. V. Public School. He appeared in +2 Science Examination and was placed in first Division from the Central Board of Secondary Education. The petitioner appeared in the Joint Entrance Examination of 2000 held for admission into the Engineering and Architecture and was placed in the 71st rank in the merit list of candidates for Architecture under general category and secured 4068 position in the merit list in Engineering stream under the general category. The examination was held on 20th and 21st of May, 2000 and the petitioner had been assigned Roll No. UEA-91625. The petitioner was directed to report for counselling on 16-8-2000 for admission into Engineering stream and on 25-8-2000 for admission into Architecture stream. Since the

petitioner was interested for the Architecture stream he reported for counselling on 25-8-2000, but was denied admission on the ground that he had not produced original mark-sheets at the time of counselling. Further case of the petitioner is that original mark-sheet was lost on 16-8-2000 for which an F.I.R. was lodged and provisional mark-sheet was obtained from the Principal, D.A.V. Public School where the petitioner was reading and the said provisional mark-sheet was produced before the authorities at the time of counselling. However, said provisional mark-sheet was not accepted and the petitioner was denied admission into Architecture stream.

3. Counter has been filed by the opposite parties 1 and 2. It is stated in the counter that for non-compliance of mandatory provisions prescribed under Clause 2. 12(b) of the Information Brochure and Clause 8(b) of the call letter, the petitioner was denied admission. It is further stated that though as per his performance in the examination he was placed in the merit list, he did not submit the required original mark-sheet of 10+2 Science at the venue of counselling. Therefore, the petitioner was not allowed to participate in the counselling. The petitioner knew about the provisions contained in the Information Brochure, but still then failed to produce the original mark-sheet as per Clause 8(b). For non-production of the original mark-sheet the petitioner was declared disqualified at the time of counselling and became ineligible for admission.

Shri R.K. Mohaparta, learned senior advocate appearing for the opposite parties 1 and 2 at the time of hearing further submitted that the certificate issued by the Central Board of Secondary Education Indicates that the petitioner had appeared in eight subjects, whereas the mark-sheet submitted by the petitioner indicated only six subjects. That created a doubt at the time of counselling and therefore the petitioner was denied admission.

4. Shri R. Rath, learned counsel for the petitioner submits that no marks in the subjects like Work experience, Physiology and Health Education and Art Education are awarded and only grades are indicated in the original mark-sheet. Therefore, while preparing the provisional certificate the Principal of the D.A.V. Public School did not mention about those subjects and in the rest five subjects marks obtained by the petitioner are well reflected in the Provisional mark-sheet issued by the Principal. Shri Rath has produced xerox copy of the original mark-sheet received by him which is said to have been lost prior to counselling by way of an additional affidavit.

5. Clause 2.12 of the Information Brochure runs as follows :

"2.12 -- Documents required at the time of admission.

The candidate must submit the following documents at the time of admission.

a) Original College/School leaving certificate in the prescribed form from the Institution last attended (except for candidates claiming admission under Physically Handicapped category) should be submitted at the time of counselling

or on a date nor later than the date of reporting to the college to which they are admitted, candidates seeking admission to institutes outside Orissa, however, have to submit the original college/school leaving certificate at the time of counselling.

b) Original mark-sheet and pass certificate of 10+2 Sc. or equivalent/diploma examination passed.

c) Original conduct certificate from the head of the Institution last attended.

d) Candidates who have been called for admission on the basis of Joint Entrance Examination Result. But were awaiting results of the 10+2 Sc. or equivalent/diploma examination at the time of application must produce the original pass certificate with attested true copies at the time of admission.

e) Original certificate for any reserved categories claimed.

f) Any other certificate additional photographs and attested copies of documents as desired by the admission committee."

Sub-clause (b) of Clause 2.12 of the Information Brochure prescribes that original mark-sheet and pass certificate of 10+2 Science or equivalent/diploma examination passed has to be produced at the time of admission. Relying on the said clause Shri Mohapatra submits that since the petitioner failed to produce the original mark-sheet he was denied admission.

6. Now the question is if a candidate loses original mark-sheet can he be denied admission even if a provisional certificate issued by the competent authority is produced. In the present case, original mark-sheet had been lost and an F.I.R. had been lodged Indicating loss of the mark-sheet and on the basis of the F.I.R. and affidavit the Principal of the D.A.V. Public School where the petitioner was reading had issued the provisional certificate indicating the marks secured by the petitioner in different subjects. There is no reason for discarding the provisional certificate only on technical ground that the original mark-sheet was not produced as per the requirement of the Information Brochure.

Second question raised by Sri Mohapatra, that there was a doubt with regard to genuineness of the mark-sheet as pass certificate discloses that the petitioner had appeared in eight subjects and the provisional mark-sheet Issued by the Principal indicates the marks secured in five subjects, is concerned, I am of the view that if the officers conducting counselling had any doubt in their mind they should have asked the petitioner to obtain correct certificate instead of denying him admission altogether. Because of conduct of officers in denying admission to student on technical ground without application of mind, may affect the career of a student. Officers conducting counselling should not only be fair and reasonable but also apply their mind at the time of counselling and afford full opportunity to the candidate if any doubt arises in mind in any matter. The hard labour put in by a student for entry into the desired course gets shattered by conduct of the officers in charge of counselling denying admission on technical grounds and/or

by not affording an opportunity to the student concerned to rectify the defect if any.

It is found from the xerox copy of the original mark-sheet that in three subjects, such as work experience, Phy & Health Education and Art Education no marks were awarded and only grades are indicated. Therefore, no fault can be found with the Principal issuing provisional certificate indicating the subjects where marks are actually awarded. If the officers conducting such counselling had any doubt in mind, they could have asked the petitioner to explain the same or obtain another certificate from the Principal indicating the marks secured in all the eight subjects. Instead of doing so most unreasonably and without application of mind the petitioner has been denied admission.

7. I, therefore, dispose of the writ application directing that if the petitioner produces the provisional mark-sheet issued by the Principal. D.A.V. Public School, Bhubaneswar Indicating the marks and grades obtained in all the subjects within a period of fifteen days from today, he shall be given admission into the Architecture Stream within fifteen days from production of such certificate. Since stand has been taken by the opposite parties 1 and 2 that they have nothing to do after the counselling is over, this direction is to be carried out by the Director, Technical Education and Training, Orissa, Bhubaneswar which has been added as opposite party No. 4 in this writ application. Prayer by Sri Rath for a direction to admit the petitioner in any Government College cannot be acceded to if no such seat is available In Government Colleges. If a seat is available the Director, Technical Education and Training, Orissa, Bhubaneswar shall take all necessary steps for admission of the petitioner into Architecture stream in any of the Government Colleges where the seat is available.