
(2007) 05 RAJ CK 0014
In the Rajasthan High Court

Garima Dixit (Miss)

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 23-05-2007

Acts Referred:

Citation : (2007) 4 RLW 2947

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rafiq, J.—The petitioner in this writ petition, has challenged the communication dated 28.6.2006 issued by the Rajasthan Institute of Speech and Hearing, Jaipur, namely, respondent No. 3 and the letter dated 21.6.2006 addressed to the Principal of respondent No. 3 by the Registrar, University of Rajasthan. The petitioner was admitted to the Research Education & Audiological Development Society in the four years' degree course of Bachelor in Audiology Speech Language Pathology. He prosecuted studies for complete one year. At the time when the petitioner was due to appear in the examination, the Registrar of the University vide letter dated 21.6.2006 informed, the Principal of that College that on scrutiny of his enrollment form it has been observed that the petitioner was not eligible for admission as the petitioner is having lower percentage of marks than required. It was, therefore, directed that the admission of the petitioner be cancelled. On that basis, the Director of the Institute informed the petitioner about the same. It is against that order that the petitioner has approached this Court by filing this writ petition.

2. Learned Counsel for the respondents argued that the marks secured by the petitioner in the supplementary examination cannot be added to arrive at 50% as per Clause 4 of the instruction issued by the Rajasthan Secondary Education Regulations, 1957. The aforesaid clause provides that such candidates who appeared in the supplementary examination and secured minimum required marks, they will be declared as pass only and no division shall be provided to

them. The learned Counsel for the respondent has for the purpose of analogy also referred to provision 193-C of the University Ordinance which provides that such candidate would not be entitled to division on account of increase in marks and it has also been submitted that for the purpose of declaring them pass, only minimum shall be added for the subject concerned.

3. The petitioner could not be denied admission and permission to appear in examination on mere analogy from aforesaid University Ordinance, because there is no provision therein like Clause 4 of the Regulation of the Board and therefore what that clause does not lay down specifically cannot be read therein by taking analogy from the university ordinance.

4. In the case of the petitioner, he has secured 52.4% marks in aggregate in all the subjects whereas in Physics, Chemistry and Biology he has secured aggregated of 49.67% marks. The learned Counsel on this aspect relied on the judgment of this Court in Dinesh Singh v. University of Rajasthan and Anr. 2005 WLC (Raj.) UC 13 and Bharti Devi Meena v. The Convenor, PTAT, Maharishi Dayanand University, Ajmer 2006 WLC (Raj.) UC 165 wherein it has been held that if total of marks the aggregate of 39.88% shall be treated as 40% in round figure and therefore the petitioner was held entitled for admission to PITT-2005. Here in this case also remainder of the fraction being 0.67% is more than 0.5 and if rounded up it becomes complete one to make the aggregate as 50%. But that would become necessary only when the contention of the respondents on this aspect is accepted as correct.

5. Learned Counsel for the petitioner submitted that the respondents are misconstruing the rules relating to admission inasmuch as, 50% in aggregate is required in 10 + 2 examination. He has secured 52.4% and if aggregate of three papers i.e. Physics, Chemistry and Mathematics is taken, he has secured 49.67% in aggregate. Action of the respondents in cancelling his admission is therefore illegal.

6. On the other hand Shri N.K. Sharma learned Counsel for the respondents has argued that according to the admission rules, the candidate is required to have passed 10 + 2 in Science with Physics, Chemistry and Biology with 50% marks in aggregate. It has been stated that the aggregate of 50% marks as indicated above immediately after the subjects of Physics, Chemistry & Biology should be taken to mean that a candidate would be required to secure atleast 50% marks in aggregate both if the marks of all the three subjects are taken together as also individually in each of the subject; the admission of the petitioner has rightly been cancelled.

7. In order to appreciate the rival submissions, it would be appropriate to extract the relevant rule of admission which has been relied on by the respondents for cancellation of admission, which is as under:

2. Admission Criteria

Bachelor In Audiology And Speech-Language Pathology:

a. Education:

Minimum requirement: Candidate who have successfully completed the pre-university examination of any recognised university (in India) or equivalent of 10+2 education in India or abroad.

b. The subjects at the 10+2 or equivalent level. A candidate who has passed 10 + 2 in science with physics, chemistry and biology (with aggregate of 50% marks) will be eligible for admission to the course.

c. Age:

Minimum age must be 17 years on the last day of year of admission to this course.

8. It would be evident from the rule of admission laid down by the University that a candidate who has passed 10+2 in Science with Physics, Chemistry and Mathematics with 50% marks in aggregate will be eligible for admission to this Course.

9. The prospectus which was supplied to the candidates for the purpose of admission also indicated the admission criteria as under:

ADMISSION ELIGIBILITY:

The minimum requirement for admission will be 10 + 2 with minimum 50% at the final examination.

Candidates who have obtained a minimum of 50% with at least three subjects from among Physics, Chemistry, Mathematics and Biology subjects. A candidate who has studied Biology shall have priority for admission.

Age limit for admission is 25 years as on 1st July 2005, as per RCI regulations and 2 years relaxation would be given for SC/ST.

10. Indicating 50% marks in aggregate within the bracketed portion immediately after those three subjects cannot be taken to mean that 50% marks in aggregate are required to be secured in only these three subjects. A candidate who has passed 10+2 examination taking all subjects together and therefore requirement of 50% aggregate marks would have to read for entire examination of senior secondary and not just for the subjects of Physics, Chemistry and Biology either collectively or individually for each of these subjects.

11. Besides the respondents have subsequently treated the candidates having the subject of Mathematics also as eligible for admission and if this argument which they are seeking to advance now is taken to its logical conclusion, subject of Mathematics having not been mentioned at all, the aggregate of two subjects would possibly form the basis for admission. Such an interpretation would therefore be neither acceptable on logic nor based on sound reasoning.

12. In the facts of the case, I find that cancellation of the admission of the petitioner cannot be sustained in law.

13. Consequently, communication dated 28.6.2006 and letter dated 21.6.2006 are set aside. Resultantly, the petitioner shall be eligible to prosecute his studies further and appear in the examination in accordance with the rules.

14. The writ petition is accordingly allowed.