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**(2008) 10 SC CK 0001**

**In the Supreme Court Of India**

**Case No : Civil Appeal No. 2252 of 2006**

Guru Nanak Dev University

APPELLANT

Vs

Sanjay Kumar Katwal and Another

RESPONDENT

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**Date of Decision : 21-10-2008**

**Acts Referred:**

Indira Gandhi National Open University Act, 1985 — Section 2

**Citation :** (2009) 1 JCR 101 : (2008) 11 JT 543 : (2009) 2 MLJ 760 : (2008) 13 SCALE 760 : (2009) 1 SCC 610 : (2008) 3 UPLBEC 2821

**Hon'ble Judges :** K. G. Balakrishnan, C.J.; R. V. Raveendran, J

**Bench :** Division Bench

**Advocate :** Manoj Swarup, for the Appellant; Party-in-Person, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

K.G. Balakrishnan, C.J.—This appeal, by special leave, has been filed by the appellant-Guru Nanak Dev University against the judgment dated 5.7.2005 of a Division Bench of the High Court of Punjab & Haryana, whereby the writ petition filed by the first respondent herein was allowed approving his admission to the LL.B. (three years professional) course at St. Soldier Law College, Jalandhar, affiliated to the Appellant.

2. The Government of Punjab authorized Punjab University to conduct a Common Entrance Test for selection of students for admission to three year LL.B. (Professional) course for the session commencing from 2004-2005, for the various colleges affiliated to or run by the said University and the appellant university. The first respondent appeared for the entrance test held on 8.7.2004 and was declared successful. He attended the counselling and was selected and was admitted to St. Soldier Law College at Jalandhar (second respondent) affiliated to appellant university. He paid the tuition fee of Rs. 25000/- to the second respondent and attended college regularly. The final examinations of first semester were held in December, 2004. After scrutinizing the records relating to the first respondent, the appellant university registered the first respondent for

the examination with Roll No. 4723. The first respondent appeared for the first semester examination.

3. Thereafter, the appellant university wrote a letter dated 20.12.2004 informing the college that first respondent's basic degree was M.A.(English) from Annamalai University through Distance Education, which was not recognized by it and therefore, his admission to LL.B. course should be cancelled. The first respondent submitted a detailed representation contending that his admission was valid. The appellant did not agree and by letter dated 29.3.2005 directed the second respondent college to cancel the admission of the first respondent.

4. Feeling aggrieved, the first respondent filed a writ petition before the High Court of Punjab & Haryana, contending that he was eligible for admission as he possessed a M.A. degree recognized as equivalent to M.A. degree of the appellant-University and that his admission could not be cancelled. The High Court accepted the contention of the first respondent and directed that his admission to LL.B. course be restored forthwith. The High Court rejected the contention of the appellant that a bachelor's degree was a pre-condition for admission to the LL.B course by holding that prescription of M.A. was an alternative eligibility qualification for admission to the course. These findings of the High Court are challenged before us.

5. The academic qualification prescribed for admission to three years LL.B professional course (vide Handbook of Information)is as follows:

Candidates who have passed bachelor's Degree of Guru Nanak Dev University or any other equivalent examination recognized as such by the University with not less than 45% marks; or Master's Degree of Guru Nanak Dev University or of any other University recognized as equivalent there to.

6. The appellant-University submitted that a Bachelor's degree is a must for admission, and the Master's degree of the appellant University (or the equivalent) was considered as an eligible qualification for admission, only where the candidate had not secured 45% marks in the Bachelor's degree course.

7. This argument of the appellant-University is contested by the first respondent, who appeared in person. According to him, the provision relating to eligibility used the word "or" between the two qualifications prescribed; and that indicated that they were alternatives and possessing either of them would make a candidate eligible. He submitted that as he possessed M.A. (English) degree from the Annamalai University, through Distance Education, under the Open University System (OUS), he fulfilled the alternative requirement prescribed, that is, a master's degree recognized as equivalent to the master's degree of the appellant- University and, therefore, he is eligible to get admission to three years LL.B professional course.

8. The prescription of eligibility criteria is very clear. It requires a Bachelor's degree with not less than 45 marks or a Master's degree. The university's

contention that the candidate must have a Bachelor's degree and only if his marks are less than 45% in the Bachelor's degree course, the Master's degree was to be considered, would mean that the word 'or' should be substituted by the words 'in the event of the candidate not having 45 marks in Bachelor's degree'. Reading such words into the provision is impermissible. The word 'or' is disjunctive. No doubt, in some exceptional circumstances, the word 'or' has been read as conjunctive as meaning 'and', where the context warranted it. But the word 'or' cannot obviously be read as referring to a conditional alternative, when such condition is not specified. In view of the provision relating to eligibility being unambiguous and using the word 'or', it is clear that a Master's degree without a Bachelor's degree will satisfy the eligibility requirement.

9. The next contention of the university is that a person without having a Bachelor's degree cannot have Master's degree. They contend that even according to the criteria prescribed by Annamalai University for admission to MA, only persons who have BA or equivalent degree, are eligible for admission. They rely on the following eligibility criterion prescribed by Annamalai University for admission to MA degree course:

Candidates who have passed the B.A. or B.Sc. Or BOL or an examination of any other university, accepted by the Syndicate as equivalent thereto, with English under Part I/II/III, are eligible to join MA Degree course in English. Preference will be given to those who have studied English under Part III.

10. The Appellant University therefore contended that as the first respondent did not possess a Bachelor's degree, the Master's degree secured by him is irregular. On the other hand, first respondent pointed out that the above eligibility criteria prescribed by Annamalai University was for admission to regular M.A. degree course or M.A. Correspondence Course; and that the eligibility criteria for admission to Master's degree programme under the Open University System ('OUS'), in the Annamalai University - distance education, was as follows:

Those who have completed the age of 21 as on 1st July of the year of admission and have subsequently passed the preparatory course examination are eligible for admission.

11. It is thus clear that under the OUS scheme, if a candidate had passed the preparatory course examination for admission to MA (English) literature, he need not have a basic Bachelor's degree. It is true that normally a student cannot enroll for a Master's degree course unless he has a basic Bachelor's degree in the chosen subject. But some universities may provide for enrolment to a Master's degree course without a basic Bachelor's degree course, if certain requirements are fulfilled. Annamalai University has in fact made such a provision for enrolment to M.A. course by distance education (OUS).

12. The last contention of the appellant university is that the MA (OUS) qualification possessed by the first respondent is not recognized as equivalent to the Master's degree of appellant university. The appellant university has issued

an equivalency book containing the list of examinations of other universities recognized by the appellant university. Clause (5) of the said equivalency book reads thus:

That correspondence courses conducted by other Universities/Boards/Bodies be recognized as equivalent to the corresponding (regular) examinations of this University provided that regular examinations of those Universities/Boards/Bodies already stand recognized as equivalent to the corresponding examinations of this University (Academic Council, dated 16.1.1990).

The said equivalency book also shows that MA examination of Annamalai University is recognized as equivalent to MA examination of appellant university. But that may not be sufficient. The appellant university in its additional affidavit has clarified that there are three types of courses, as under:

(i) Regular Courses;

(ii) Correspondence Courses: (where the University directly sends the course material to the students. There is therefore direct contact of the university with the students).

(iii) Distance Education Courses: (where the University concerned designates a franchisee/associate institutions in the concerned local area and the course material is then given by the said franchisee/associate centre. There is no direct contact between students and the University).

13. The appellant university has categorically stated that while regular courses and correspondence courses in MA conducted by Annamalai university are recognized as equivalent to the corresponding M.A. course of the appellant university, M.A. (OUS) course through distance education conducted by Annamalai university is not recognized by the appellant university as equivalent to its M.A. course. The first respondent has passed his M.A. (OUS) from Annamalai University through distance education. Equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. The first respondent has not been able to produce any document to show that appellant university has recognized the M.A. English (OUS) of Annamalai University through distance education as equivalent to M.A. of appellant university. Thus it has to be held that first respondent does not fulfil the eligibility criterion of the appellant university for admission to three year law course.

14. The first respondent made a faint attempt to contend that the distance education system includes 'correspondence courses' and therefore recognition of M.A. (correspondence course) as equivalent to M.A. course of appellant University, would amount to recognition of M.A. - OUS (distance education) course, as an equivalent. For this purpose, he relied upon the definition of "distance education system" in Section 2(e) of Indira Gandhi National Open

University Act, 1985. But there is nothing to show that Annamalai University has treated correspondence course and OUS (distance education) course as the same. What is more important is that the appellant university does not wish to treat correspondence course and Distance Education Course as being the same. That is a matter of policy. Courts will not interfere with the said policy relating to an academic matter.

15. Therefore the appeal of the University deserves to be allowed. Accordingly, the judgment of the High Court holding that M.A. English degree (OUS) granted by Annamalai University through distance education is equivalent to MA degree of appellant university, is set aside.

16. However, on the peculiar facts of the case, the first respondent is entitled to relief. The first respondent was admitted through a Common Entrance Test process during 2004-2005. He was permitted to take the first semester examinations by the university. He is not guilty of any suppression or misrepresentation of facts. Apparently, there was some confusion in the appellant university itself as to whether the distance education course attended by the first respondent was the same as correspondence course which was recognized. The first respondent was informed that he was not eligible, only after he took the first semester examination. He has however also been permitted to continue the course and has completed the course in 2007. He has succeeded before the High Court. Now after four years, if it is to be held that he is not entitled to admission, four years of his career will be irretrievably lost. In the circumstances, it will be unfair and unjust to deny the first respondent the benefit of admission which was initially accepted and recognized by the appellant university. This Court in *Shri Krishnan Vs. The Kurukshetra University, Kurukshetra*, has observed that before issuing the admission card to a student to appear in Part-I Law Examination, it was the duty of the university authorities to scrutinize the papers; and equally it was the duty of the Head of the Department of Law before submitting the form to the university to see that it complied with all requirements; and if they did not take care to scrutinize the papers, the candidature for the examinations cannot be cancelled subsequently on the ground of non- fulfillment of requirements. In *Sanatan Gauda Vs. Berhampur University and others*, this Court held where the candidate was admitted to the Law course by Law College and University also permitted him to appear for Pre-Law and Intermediate Law examinations, the college and the university were estopped from withholding his result on the ground that he was ineligible to take admission in Law course. Having regard to the above we are of the view that irrespective of the fact that M.A. English (OUS) degree secured by first respondent from Annamalai University through distance education, may not be recognized as an equivalent to the Master's degree of the appellant university, his admission to the law course should not be cancelled. The appellant University is directed to treat the admission as regular admission and permit the first respondent to appear for the law examination and if he has already appeared for the examination, declare his result. The appeal is disposed of accordingly.