

(1955) 12 RAJ CK 0003
In the Rajasthan High Court
Case No : Writ Application No. 74 of 1955

Hanwantchand

APPELLANT

Vs

Principal, Maharaj Kumar College, Jodhpur

RESPONDENT

Date of Decision : 15-12-1955

Acts Referred:

Constitution of India, 1950 — Article 14
Rajputana University Act, 1946 — Section 31

Citation : AIR 1956 Raj 158 : (1956) RLW 235

Hon'ble Judges : K.N. Wanchoo, C.J.; D.S. Dave, J

Bench : Division Bench

Advocate : Ganpatsinch, for the Appellant; L.N. Chhangani, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Wanchoo, C.J.—This is an application under Article 226 of the Constitution by Hanwantchand against the Principal, Shri Maharaj Kumar college, Jodhpur, and the University of Rajputana, Jaipur, for issue of a writ of mandamus or any other appropriate writ, order or direction to the opposite parties.

2. The case of the applicant is briefly this; He is a resident of Jodhpur, and appeared at the Intermediate Examination in Commerce in 1955 held by the Central Board of Secondary Education, Ajmer. This examination is recognised by the University of Rajputana, and the applicant passed in the second division. He had not studied in any College or recognised institution, but appeared as a private candidate as that is permitted by the rules of the Ajmer Board.

After passing the examination, he applied for admission in the third year commerce class of Shri Maharaj Kumar College, Jodhpur. The principal, however, refused admission to him, and based his refusal on the instructions received from the Registrar of the Rajputana University.

The instructions were that those persons who passed their intermediate

examination as private candidates from other Universities or Boards should not be admitted to the degree classes of colleges affiliated to the University of Rajputana except teachers and women candidates.

The applicant has attacked these instructions of the University of Rajputana on the ground that they make an unfair discrimination between those students who pass the intermediate examination of other universities or Boards after attending a course of study in recognised institutions, and those who pass the same examination but without attending such a course of study.

It is urged that these instructions based on a resolution of the Academic Council and the Syndicate of the University of Rajputana are hit by Article 14 of the Constitution. It is also urged that such a restriction cannot be placed under the provisions of the University of Rajputana Act.

It is, therefore, prayed that a direction be issued to the opposite parties to admit the applicant in the third year commerce class. Finally it is pointed out that though the resolution had been passed in May, 1954, students were admitted in July, 1954, in spite of the resolution, and it was enforced only from July, 1955, and this is also said to be discriminatory.

3. The application has been opposed by the opposite parties on two main grounds. In the first place, it is urged that Article 14 does not apply to the acts of autonomous bodies like the University. In the second place, it is urged that even if Article 14 applies, the resolution is based upon reasonable classification on an intelligible differentia having reasonable connection with the objectives to be achieved.

4. We do not propose in this case to discuss the first point raised on behalf of the opposite parties namely whether Article 14 would apply to the case of an autonomous body like the University, for we have come to the conclusion that the application must fail on the second ground taken by the opposite parties.

Prima facie the argument on behalf of the applicant that there is discrimination between those students who pass the intermediate examination of other Boards after attending a regular course of instruction in a recognised institution and those who pass as private candidates appears plausible, and if the facts were all that have been stated by the applicant, there might have been something in his contention. But the facts as they appear from the reply of the opposite parties in this connection are these :

5. The University of Rajputana does not allow private candidates to appear at the Intermediate Examination held by it, except in the case of women and teachers. This decision has been taken by the University in the interest of higher education as. the University feels that study at a recognised institution is necessary if the quality of those who take to higher education is to improve.

This decision has been taken therefore on grounds of broader educational policy, by those in charge of education in the University of Rajputana. Exception has

been made in the case of teachers for they are already connected with recognised institutions, and of women presumably to encourage female education.

In other cases, the University of Rajputana does not admit private candidates to the Intermediate Examination. Because of this rule of the University, residents of Rajasthan began to appear in the intermediate examination of the Ajmer Board where there is no such prohibition against private candidates. This defeated the policy of the University, and consequently the University passed the resolution which has been attacked by the applicant.

It is not for us to sit in judgment over the educational policy of the University though we may say that the rule of the University which prohibits persons from appearing privately in the intermediate examination except for two limited classes is on the whole a salutary rule. But when that rule began to be avoided by persons in Rajasthan by taking the examination of the Ajmer Board where private candidates are admitted, the University passed the resolution in dispute in defence of this policy relating to higher education.

By passing this resolution the University did not, in our opinion, discriminate between persons passing the intermediate examination after attending a recognised institution and those passing it as private candidates. It was merely carrying out its educational policy, and there is, in our opinion a reasonable basis for classification on an intelligible differentia which has a reasonable connection with the objective to be achieved namely sound higher education.

It cannot therefore be said that by enforcing this resolution the University is denying equality -before the law. It is, as a matter of fact, putting those who appear in the Intermediate examination of other Universities or Boards on the same footing as those who appear for the intermediate examination held by itself. There is, in our opinion, no force therefore in the contention that this resolution is hit by Article 14 of the Constitution.

6. As for the contention that in July 1954 the University admitted persons like the applicant, even though the resolution had been passed in May, 1954, the explanation is that as the resolution was passed after the examinations were over, the University thought it fit not to enforce it in July, 1954, and decided to enforce it from July, 1955, when everybody had notice of the policy of the University in this behalf.

The fact therefore that some persons were admitted last year under similar circumstances cannot affect the power of the University to enforce the resolution from July, 1955.

7. Lastly, it is urged that, u/s 31, University of Rajputana Act, admission of students to a college is subject to the conditions prescribed by the Ordinances in this behalf. Ordinance 81 provides that students shall not be eligible for admission to the degree examination unless they have passed the intermediate

examination of the University or an equivalent examination, and possess such other qualifications, if any, as may be prescribed by the Ordinance.

It is urged that admission can be refused only if the necessary qualifications are not there, and that attendance at a recognised institution is not a qualification which may be prescribed by the University for admission. We cannot accept this argument. The University may impose only one qualification namely the mere passing of the intermediate examination.

But if it imposes some other qualification, it can do so. We have no doubt that study at a recognised institution is a qualification, and the University can impose that in addition to the mere passing of an examination. We cannot accept that there is no difference between passing an examination as a private candidate and passing as a student of a recognised institution, and that the latter does not amount to a qualification.

There are undoubtedly many advantages that a student gains if he attends a recognised institution besides, of course, passing the examination through that institution. If the University is of the view in the interests of higher education that these other advantages should also be there in a candidate who wants to appear for a degree examination, it cannot be said that that view is "per se" wrong.

We are, therefore, of opinion that the University can prescribe an additional qualification for admission to a degree examination, and study in a recognised institution for the necessary period is nothing but one such qualification. The University therefore having prescribed this qualification, the principal was bound to follow it, and as the applicant did not possess this additional qualification, and had merely passed the examination, his application for admission to the degree examination in commerce was rightly rejected.

8. There is no force in this application, and it is hereby dismissed with costs.