

(1992) 09 RAJ CK 0015
In the Rajasthan High Court

Case No : Civil Writ Petition No"s. 6014, 6106 and 6122 of 1992, 6176 of 1991

Harphool Chand and Others

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 18-09-1992

Acts Referred:

Citation : (1992) 3 WLC 435 : (1992) WLN 473

Hon'ble Judges : V.K. Singhal, J

Bench : Single Bench

Judgement

V.K. Singhal, J.—Mr. Y.C. Sharma puts appearance on behalf of the respondents and accepts notices. Looking to the facts and circumstances of the case, arguments of both the learned Counsel have been heard for final disposal of the petitions at the admission stage.

2. Since a common question of law arises In all these writ petition, they are disposed of by this common order.

3. The submission of the learned Counsel for the petitioner is that the petitioners have appeared in the 1st part of Ayurved Compounder/Nurising training course in January, 1991 and the result was declared on 14th August, 1991. In this result, the petitioners have been declared unsuccessful in one or moire than one papers. The second attempt was taken in December, 1991 and the result was declared on 7th July, 1992. The submission of the learned Counsel for the petitioners is that the First Part Course is for one year and the Second Par Course is for 11/2 years and in accordance with the provisions of 0.329 N-31 it has been provided that a candidate who fails in part-I examination shall be allowed provisional admission to Part-II Class. According to the submission of the learned Counsel for the petitioners, the petitioners were given provisional admission from January, 1991 and have thus completed the education of 1 1/2 years as required for the eligibility to appear in the second part examination, it is submitted that if the petitioners are allowed to appear in the Second Part Examination along with the papers of 1st Part Examination, the valuable time of the petitioners would not be

wasted and since they have already studied the subjects, they would be in a better position to answer the papers at this stage. The Judgment of Narendra Kumar v. State of Rajasthan S.B. Civil Writ Petition No. 6970/91 decided on 12.8.1992 was also referred, in which the petitioners who were allowed to appear provisionally in Part Second examination, this Court has directed that their result may be declared.

4. The submission of Mr. Y.C. Sharma, on behalf of the respondents is that Clause (8) of the Ordinance puts a bar for appearance in the Second Part Examination and only those students who have cleared part I Examination are entitled to appear in Part II Examination. According to the submission of Mr. Sharma, it is also not known as to whether the period of 1 1/2 years as alleged by the learned Counsel for the petitioners have actually been undertaken. He has referred to the decision given by this Court in the cases of Suresh Chand Gupta v. State of Rajasthan, S.B. Civil Writ Petition No. 6741/91 decided on 26th May, 1992 and Miss Upma Acharya v. University of Rajasthan S.B. Civil Writ Petition No. 1019/92, decided on 11th March, 1992.

5. I have considered over the matter. Firstly, I would observe that it has become the practice and routine that In all cases where the students are anxious of appearing in the examination they would approach this Court only a day earlier praying that the examination are to be conducted by the University/College from tomorrow and, therefore, as an urgent matter, the case should be ordered to be taken up and the provisional permission should be allowed. Under law, even provisional permission has no value, but the very action of the petitioner to wait till last date, shows that they have not come with clean hands, so as to provide reasonable opportunity to the respondents who may submit their reply. The court should take a notice of this fact alone that those students who are approaching the Court only a day or two earlier, their only intention is o get favour for the reason that the matter pertains to the future of the students. The Court is conscious that where the future of the students is involved, they must take sufficient safe-guards and protect the rights of the students, but I am of the view that this facility should be given to only those students, who approach the court well within time, so that the matter could be considered in details. There may be exceptional circumstances, where in a particular case, it may happen hat the student was informed for not allowing in the examination only a day or two earlier. Leaving such exceptional circumstances, if approach is made leaving no time even to hear the arguments of other side, then it should be considered that the petitioners on merits have no case and only because of shortage of time, this opportunity is being availed of.

6. Now coming to the merits of the case, there is a specific ban in the Ordinance 329 N-31 under which a student is not permitted to appear in Part -II examination and that permission can only be given when he has cleared Part-I Examination. The validity of the Ordinance is no being challenged in the present writ petition and, therefore, the language of the Ordinance being very specific,

even the court has no discretion to allow any student to appear in the Part-II examination unless a student has cleared Part-I Examination. There is another point, which arises for consideration, that the students are given provisional admissions, but the Ordinance does not provide as to when the provisional admission should come to an end, according to the submission of Mr. Y.C. Sharama, the moment result of the student is declared, the provisional admission shall come to an end, but that should be made clear in the Ordinance itself and if that is the position, then the result of the petitioners was declared on 14th August, 1991 and the provisional admission which was given in January, 1991 after the first attempt was made by them in the Part-I Examination, it should be considered that their provisional admissions in Part-II Examination has come to an end.

7. According to Clause-6 of the said Ordinance, it has been provided that the examination has to be held twice in a year, ordinarily in the months of April/May, November/December, but it is seen that the examinations are not conducted in accordance with the Ordinance, it is the duty of the University/Colleges to hold the examinations and to comply with the conditions of the Ordinance and not to flout them. Any loss of time on account of delay on the part of the University affects the future of the students and, therefore, care should be taken that the schedule as per the Ordinance is strictly adhered to. When it is expected that every body should follow the law, the University/College cannot be the exception, and in respect of their Ordinance they cannot be allowed not to comply with it. In the present case, it would be proper that the students should appear in the Part-I, examination and if they are declared successful, then the University should have a special examination, particularly in respect of those students who have completed the period of 18 months, which is the eligibility time for

the Part II examination and have qualified the 1st Part of the examination before that date.

8. It has also been shown to me that there is abnormal delay in declaration of result, which is 6 to 8 months. I may only observe that it is abnormally high time which is taken in declaring the result. In such a time when the period of a day has its own value in the life of a student, the University should endeavour to declare the result within a reasonable and minimum time and in any case not more than 3 months of the completion of the examination. The examinations, which are now to commence from 9th September, 1992 and will be completed on 24th September, efforts should be made by the University to declare the results in accordance with the directions given above and to be regular in future.

9. In the present matter, the University should conduct special examination as referred above within a period of two months from the date of declaration of the result of the Part-I examination, if there is no examination in between and those candidates who are found successful in Part-I examination, should be allowed to appear in the said examination. With the above observations, the writ petition stands disposed of. Parties are left to bear their own costs.