
(2014) 11 KL CK 0160

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 30429 of 2014 (C)

Honey John

APPELLANT

Vs

University of Calicut

RESPONDENT

Date of Decision : 25-11-2014

Acts Referred:

Citation : (2014) 11 KL CK 0160

Hon'ble Judges : K. Vinod Chandran, J

Bench : Single Bench

Advocate : S. Sreekumar, Senior Advocate and Manoj Ramaswamy, Advocate for the Appellant; Santhosh Mathew, Standing Counsel and Alias M. Cherian, Advocate for the Respondent

Judgement

K. Vinod Chandran, J.—The petitioners are aggrieved by the refusal of the University to permit them to sit for the 2nd semester examinations, for the B.Ed. course, in which they got themselves admitted in the academic year 2013-14.

2. The petitioners are all graduates, whose disqualification arises, according to the University, from the fact that they have been admitted to the B.Ed. after the date prescribed in Exhibit P7 prospectus. The eligibility criterion, insofar as graduation, is not at all disputed. Whether they had the eligibility before the date prescribed for the admission, is the only question projected by the University.

3. The learned Senior Counsel appearing for the petitioners would contend that the petitioners were all admitted on 22.01.2014 by the 3rd respondent-College, in the management seats which were available in the 3rd respondent for the B.Ed. courses. The petitioners did not know of the eligibility criterion other than the qualification prescribed in the prospectus, which they claim to have acquired. The learned counsel for the respondent-College would submit that Exhibit P7 prospectus is not applicable for the management quota and the reference to the prospectus is confined to the question of eligibility conditions. All the petitioners are said to have more than 80% attendance and the minimum requirement of the University being only 75%, their date of admission is irrelevant, is the

contention raised.

4. The learned Standing Counsel for the University, however refers specifically to Exhibit P7 and the stipulation under Clause 5.2 that "academic eligibility should be satisfied as on the last date for submission of academic data". Though a specific date is not prescribed, the learned Standing Counsel would refer to Annexure R1(1) to contend that the tentative allotment schedule for B.Ed. course, 2013 as fixed tentatively by the Government shows the last date for admission to be 30.11.2013. The petitioners having not qualified before that date, would not be entitled to be admitted for the B.Ed. course for the year 2013-14, is the specific contention. The learned Standing Counsel would also refer to Exhibit P7 prospectus, which speaks of "admission to B.Ed. Degree Courses in Government/Aided/Self Financing Colleges" as per Clause 1.1 and the prescription provided under "Criteria of Eligibility for Admission" at Clause 5, as extracted hereunder:

"Candidates who are Indian citizens and who do not come under Clause 5.1.(i) & 5.1.(ii) may be considered for admission to Management Quota seats in Private Self-Financing Colleges, subject to fulfilling the eligibility conditions vide Clauses 5.2 & 5.3. The admission will be based on merit and should be restricted to a maximum of 10% of management quota seats. This allotment/admission does not come under the purview of this Prospectus".

The learned Standing Counsel would also refer to Annexure R1(2) to contend that even as per the admission of the 3rd respondent-College, the three petitioners herein were qualified after 30.11.2013.

5. It is to be specifically noticed that though the prospectus, Exhibit P7, takes in admission to Government/Aided/Self Financing Colleges, it is specifically provided, by Clause 2.3(a) and (b) that allotment to merit seats in Self Financing Colleges will be done by respective institutions from the rank list prepared by the Director, LBS Centre for Science and Technology, Thiruvananthapuram and the management seats are to be filled by the concerned Managements. The proportion of seats available is specified in Clause 3.1.4, wherein, in the Government Training Colleges all the seats would be filled up on the basis of merit, subject only to reservation; whereas in Self Financing Colleges 50% of the seats would be filled as Government Quota from the rank list as specified above and 50% would be left for filling up as Management seats. The extracted portion under Clause 5 also specifies the eligibility conditions vide Clauses 5.2 and 5.3 with respect to Management seat admissions; but, however, specifically notices that the admissions with respect to Management seats does not come within the purview of Exhibit P7 prospectus. In such circumstance, the date prescribed by the Government cannot be taken as an absolute rule by which even management seats are to be filled up on or before that date.

6. Definitely a candidate has to be admitted to a course only before the date for admission prescribed by the University or the College, since the candidate

admitted to the course would also have to satisfy the minimum required attendance percentage, for appearing in the examination. In the present case, there is no prescription by the University or the Government as to when the Management seats are to be filled up.

7. With respect to the qualification, all of the petitioners had appeared for the final year examination of their graduate course in mid-2013. The learned counsel for the Management would also handover the mark-lists of the respective petitioners, which shows that the 1st and 2nd petitioners had been issued with the mark-list as on August, 2013 and the 3rd petitioner in December, 2013. Hence, even going by the tentative allotment schedule; the petitioners 1 and 2 had acquired the qualification prior to the date prescribed in Annexure R1(1). The issuance of the certificates definitely was subsequent to such date; but admissions are usually permitted on production of the mark-lists in the qualifying examination.

8. It is seen that with respect to the 3rd petitioner herein, the date shown in the mark-list is after the date prescribed by the Government. However, in the context of this Court finding that the prescription of last date for admission by the Government and the University is not applicable to the Management seats and since there is no other disqualification for the said petitioner also, this Court is of the opinion that the admission of the petitioners should be regularised.

9. Evidently all the petitioners have qualified their graduate degree and are eligible even by the prospectus to be admitted to the B.Ed. course. The delay, if any, in the admissions, can only be attributed to the delay in issuance of the degree certificates. On a similar situation, the Hon"ble Supreme Court in Charles K. Skaria and Others Vs. Dr. C. Mathew and Others, held so:

"Has the candidate, in fact, secured a diploma before the final date of application for admission to the degree course? That is the primary question. It is prudent to produce evidence of the diploma along with the application, but that is secondary. Relaxation of the date on the first is illegal, not so on the second".

10. What the University has to look into is, the veracity of the admission on the dates declared by the Management and whether the attendance percentage is complied with. In such circumstance, it is only proper that the petitioners be permitted to appear for the examinations. Their admissions shall be regularised.

The writ petition is disposed of as above. Parties are left to suffer their respective costs.