

(2009) 02 J&K CK 0031
In the Jammu And Kashmir High Court
Case No : OWP No.580 Of 2005

Kamaldeep Kour Mann

APPELLANT

Vs

University of Jammu and Ors.

RESPONDENT

Date of Decision : 04-02-2009

Acts Referred:

Citation : (2009) 1 JKJ 421

Hon'ble Judges : J.P.Singh, J

Bench : Single Bench

Advocate : Surinder Kour, D.S.Thakur, Aruna Thakur, Advocates appearing for the Parties

Judgement

Having been found involved in using unfair means while taking B.Ed. Entrance Examination 2004, by the Guru Nanak Dev University, the

petitioner was disqualified from appearing in any examination of the University of Punjab for a period of five years.

Without taking requisite remedial measures to get rid of the disqualification, which, according to her, was unwarranted, she adopted another course

of avoiding her disqualification, in approaching the University of Jammu to seek admission to the B. Ed. Course in one of its Institutions.

She was allowed by University to undergo B. Ed. Course in M.C. Khalsa College of Education, though provisionally, pending receipt of Migration

Certificate from the University she had attended last attended.

The university of Jammu, on receipt of petitioner's Migration Certificate indicating that she had been disqualified for five years from appearing in

any examination of University of Punjab, from the Guru Nanak Dev university, had later cancelled her admission vide its communication No.

Reg/05/180407 dated 29th August, 2005.

Aggrieved by University's communication, the petitioner has filed this writ petition seeking quashing of the University's communication, Besides

seeking directions against the University to Permit her to Pursue B.Ed. Course and take examination therefore.

According to the petitioner's learned counsel, petitioner's disqualification for a period of five years to appear in any examination of the University of

Punjab does not deprive her of her right to seek admission in any other university and after having been admitted to the B.Ed. Course of the

University of Jammu, she has acquired a legal right to complete the Course and take examination therefore. Learned counsel says that University's

action of canceling her admission is not supported by any provision of law and is, even otherwise, unsustainable being violative of Article 14 of the

Constitution of India because opportunity of hearing before canceling her admission, had not been allowed to her by the University.

Justifying its action of Cancelling petitioners admission in exercise of powers vested in it under statute 3 of the University's statute governing

admission of Students Teaching Departments and other Recognized Institutions, the University says that petitioner Kamaldeep Kour Mann

had sought admission under the Management Quota of M. C. Khalsa College of Education, in December, 2004, but without submitting her

Migration Certificate. The "University had, accordingly, allowed her admission provisionally which was, however, subject to determination of her

eligibility on production of Migration Certificate.

As the Migration Certificate received from Guru Nanak Dev University in August, 2005 had indicated the petitioner to have been disqualified for a

period of five years from appearing in any examination of the University of Punjab so the University had cancelled her admission because she was

ineligible under the Statutes of the University to seek, admission in the B. Ed. Course run by the University.

Relying upon the University Statutes, learned counsel appearing for the University submitted that having been disqualified by Guru Nanak Dev

University to take any University examination for a period of five years, the petitioner is not entitled to seek admission to any Course in any other

University as well, because the disqualification attached to her conduct of having

used unfair means in a University examination, would continue to be a stigma with her to seek admission in any other University for five years. According to the learned counsel, admission in Universities, is available only to those who possess good conduct and character.

I have considered the submissions of learned counsel for the parties and gone through the case law which Mrs. Kour, learned counsel for the petitioner had referred to at the time of hearing of this petition.

Production of the Conduct Certificates is the sinequa.non for seeking admission to Colleges, University Teaching Departments and other Recognized Institutions, regulated and controlled by the University of Jammu, in terms of Statute 3 of the Statutes governing admission of Students to Colleges, University Teaching Departments and other Recognized Institutions.

Petitioner admits in her writ petition that she had been disqualified from taking any examination in University of Punjab for five years. Her plea that she had annexed her Migration Certificate at the time of seeking admission to the B. Ed. Course of Jammu University, is, however, not supported by the documents on records. AnnexureB forming part of the writ petition, which is the Migration Certificate issued by Guru Nanak Dev University, is of March 09, 2005, which eloquently speaks of the incorrect statement which the petitioner has made in paragraph no. 6 of her writ petition that she had submitted Migration Certificate along with other documents at the time of seeking admission to the B. Ed. Course in University of Jammu. This is so because petitioner had been granted admission in December, 2004 and the Migration Certificate annexed with her petition is of a later date, i.e., March 09, 2005.

Petitioner's admission to the B. Ed. Course in the University of Jammu being provisional and subject to the production of Migration Certificate and Conduct Certificates from the University she had last attended, would not thus vest any right in her to seek admission to B. Ed. Course in the University of Jammu in view of the provisions of Statutes 3 and 11 of the Statutes governing admission of Students to Colleges, University Teaching Departments and other Recognized Institutions, which do not permit admission of students belonging to other Universities, in the absence of production of Conduct Certificates and Migration Certificate from the University last attended.

Petitioner had thus no right to seek admission in B. Ed. Course run by the University of Jammu.

Having been found involved in unfair means by the Guru Nanak Dev University and disqualified for a period of five years from appearing in any

University examination of Punjab University, the petitioner cannot seek any direction against the University of Jammu to regularize her admission

and permit her to take examination for the B.Ed. Course because she continues to carry the disqualification of having indulged in unfair means while

taking entrance examination for admission to B.Ed Course in the Guru Nanak Dey University for five years, wherever she goes. This is so because

the disqualification attached to her conduct because of her having been found involved in unfair means goes to the very root of her character and

conduct which may not thus entitle her to receive education in any other University as well.

Petitioner's plea that her disqualification to appear in any examination of University of Punjab for five years, does not deprive her of her right to

receive education in any other University, is found to be untenable, in that, it would be irrational to interpret petitioner's disqualification, restricted

only to the University of Punjab.

Law laid down in *Shri Krishan v. The Kurukshetra University* reported as AIR 1976 SC 376 and *Rajendra Prasad Mathur v. Karnataka*

University and anr., reported as AIR 1986 SC 1448, referred to by petitioner's counsel, may not be applicable to the facts of the present case

because the University of Jammu had granted provisional admission to the petitioner which was subject to the production of Migration Certificate

and in this view of the matter, admission being provisional, could well be withdrawn by the University, without any prior notice to the petitioner,

when her Migration Certificate did not justify her admission in the University in view of the University's Statute and the legal position referred to

herein.

Petitioner appears to have secured her provisional admission in University of Jammu by misrepresentation of facts as she had omitted to disclose

about her disqualification by Guru Nanak Dev University to appear in any examination of Punjab University for a period of five years when she had

sought admission to the B. Ed. Course.

I, therefore, do not find any merit in petitioner's counsel's submission that the University Authorities had granted admission to the petitioner despite

having known about her disqualification because nothing has been placed on records to substantiate the plea, which on the basis of the material

available on records is not even otherwise sustainable.

Having secured admission by misrepresentation of facts, petitioner was not entitled to any hearing before cancellation of her provisional admission.

For all what has been said above, I do not find any merit in the writ petition, which is, accordingly, dismissed.