

(2015) 05 BOM CK 0067
In the Bombay High Court
Case No : Writ Petition No. 248 of 2014

Keval Shrihari Ramani

APPELLANT

Vs

The State of Goa and Others

RESPONDENT

Date of Decision : 08-05-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 05 BOM CK 0067

Hon'ble Judges : F.M. Reis, J;K.L. Wadane, J

Bench : Division Bench

Advocate : R.G. Ramani, for the Appellant; A.N.S. Nadkarni, Advocate General and Vivek Rodrigues, Addl. Government Advocate, Advocates for the Respondent

Judgement

F.M. Reis, J.—The above Writ Petition, inter alia, seeks for a declaration that the selection of Respondent no. 3 to 25 for the award of Goa Scholars 2013-14 Scholarship and atleast the selection of Respondent nos. 3 to 14 are null and void and the amount of scholarship already disbursed be repaid to the Government. The further relief sought by the Petitioner is to direct the Respondent nos. 1 and 2 to award the Goa Scholars 2013-14 Scholarship to the Petitioner.

2. Briefly, the facts of the case are that an advertisement was issued in the Navhind Times calling for the Goa Scholars 2013-14 Scholarship online on or before 23.07.2013. The scheme was not meant to be financial assistance but would recognise the merit and merit alone. Thereafter the advertisement was amended calling for applications off line on or before 30.07.2013. The Petitioner passed his degree examination in Mechanical Engineering through BITS Pilani, K.K. Birla Campus in 2012 standing first in Mechanical Engineering and 5th among 588 students at BITS Pilani, and, as such, submitted an application for registration which was registered under no. 1335. An email was received from the Respondent no. 2 to keep himself free on 18th and 19th August 2013 for interview. A request was made by the Petitioner to re-schedule the date of the

interview as the Petitioner was travelling on 18th and 19th enroute to Michigan, USA, where he had taken admission to the course of Masters in Mechanical Engineering at the University of Michigan ranking 17th in the world. Thereafter, an email was received from the Respondent no. 2 informing the Petitioner that he is short listed and that for the purpose of conducting an interview, a Skype ID was also emailed to the Petitioner. The interview of the Petitioner via Skype took place on 19.08.2013 and the results were declared in the newspaper on 20.08.2013 which did not include the name of the Petitioner. It is pointed out by the Petitioner that he was at serial no. 1 in the short listed candidates. Thereafter, the Petitioner through his father, made an application for information from the Respondent no. 2 under the Right to Information Act, 2005, and, on receipt of such information, the Petitioner noticed that the short listing of the candidates for the Award of the Scholarship was fraught with arbitrariness, bias and illegalities and, as such decided to file the present Writ Petition. As the Petitioner is already in USA, a Power of Attorney had to be executed in favour of his father and, accordingly, on 06.03.2014, the Petitioner executed another Power of Attorney before the Indian Consulate which was required in terms of law and the Collector adjudicated the duty on 17.03.2014 and accordingly the above Petition came to be filed.

3. Shri R.G. Ramani, learned Counsel appearing for the Petitioner, has pointed out that the Petitioner was short listed and the selection of the candidates for the "Goa Scholars 2013-14" is fraught with arbitrariness, bias and illegalities. Learned Counsel further pointed out that there are no reasons given as to why the Petitioner has been excluded from getting such scholarship. Learned Counsel further submits that as the scheme itself provided that merit and merit alone would be recognised to get such scholarship, there was no reason for the Petitioner to be excluded from getting such scholarship as he was short listed at serial no. 1 in the merit list. Learned Counsel further pointed out that the Petitioner has passed out from a prestigious Institution in Goa and stood first in Mechanical Engineering at BITS Pilani and, as such, he was naturally entitled to get such scholarship. Learned Counsel has taken us through the scheme of the Goa Scholars 2013-14 to point out that the admissions had to be obtained from the first fifty institutions of the World whereas there were candidates who were not admitted in said Universities and, as such, were disqualified for such scholarship. Learned Counsel has taken us through the Minutes of the Scrutiny Committee of the meeting of Goa Scholars 2013-14 to point out that based on the data provided, the Committee had short listed the candidates which, inter alia, disclosed that the Petitioner was at serial no. 1 having a percentage of 78.55%. The learned Counsel has thereafter taken us through the Minutes of the selection of the candidates who were interviewed on 18th and 19th of August 2013 to point out that out of 77 candidates who had applied for such scholarship, 48 were short listed for the interviews and based on the said interviews, the Committee unanimously selected 23 candidates which did not include the Petitioner herein. The learned Counsel has pointed out that the Minutes do not

disclose any reasons either for the selection or the rejection of the candidates including the Petitioner herein. Learned Counsel has also taken us through the profile of the Petitioner to point out that he had already scored 77.15 points on account of his meritorious performance. Learned Counsel as such pointed out that action of the Respondent nos. 1 and 2 is arbitrary, bias and illegal and, as such, the same deserves to be quashed and set aside and the reliefs be granted to the Petitioner.

4. On the other hand, Shri Vivek Rodrigues, learned Addl. Government Advocate appearing for the Respondent nos. 1 and 2 has pointed out that the Petitioner cannot challenge the decision of the Selection Committee who are experts in the field and this Court cannot sit in Appeal over the selection done by the experts. Learned Addl. Government Advocate has thereafter taken us through the Minutes of the Selection Committee to point out that the persons who were in such Committee were experts in their own field and had sufficient capacity to interview all the candidates and determine their selection. Learned Addl. Government Advocate further submits that 23 candidates have been selected and they have already taken up their respective admissions and, as such, the question of interfering with their selection would cause great injustice to the successful candidates. Learned Addl. Government Advocate has pointed out that the Petition is barred by laches and, as such, there is no reason to grant any relief to the Petitioner.

5. Learned Counsel appearing for the successful candidates have pointed out that the said Respondents have already been admitted to the respective Universities and are pursuing their studies. Learned Counsel further pointed out that based on their scholarship, such Respondents have already started their studies and their future would be gravely jeopardised in case this Court interferes with the selection.

6. Shri Sudesh Usgaonkar, learned Counsel appearing for the Respondent no. 17, has pointed out that when the candidate has taken part in the interviews, it is not open to such Petitioner to challenge the result of the interview. In support of his averment, the learned Counsel has relied upon the Judgment of the Apex Court reported in Madan Lal and Others Vs. State of Jammu and Kashmir and Others, AIR 1995 SC 1088 : (1995) 2 JT 291 : (1995) LabIC 1575 : (1995) 1 SCALE 494 : (1995) 3 SCC 486 : (1995) 1 SCR 908 : (1995) 2 SLJ 161 : (1995) 2 UJ 817 and Union of India and Another Vs. N. Chandrasekharan and Another, AIR 1998 SC 795 : (1998) 1 JT 295 : (1998) 1 SCALE 264 : (1998) 3 SCC 694 : (1998) SCC(L&S) 916 : (1998) 1 SCR 419 : (1998) AIRSCW 513 : (1998) 1 Supreme 457 The learned Counsel as such pointed out that the Petition be rejected.

7. We have given out thoughtful consideration to the rival contentions and with their assistance, we have gone through the record. It is undisputed that the Scholarships for the year 2013-14 were to be awarded on the basis of merit and merit alone. On perusal of the profile as pointed out by Shri R.G. Ramani,

learned Counsel appearing for the Petitioner, the Petitioner was a meritorious student who had a brilliant academy career. But, however, as per the Minutes of the Selection Committee, the Petitioner is not found in the list of successful candidates. The contention of the learned Addl. Government Advocate appearing for the Respondent nos. 1 and 2, that this Court cannot sit in Appeal in the selection carried out by the Selection Committee, cannot be disputed, but, whether the decision making process by the Selection Committee is unreasonable or arbitrary it is always open to judicial scrutiny. In the present case, when the learned Addl. Government Advocate was asked whether besides the said Minutes at exhibit P-4, there was any other Memorandum or reasons recorded for such selection or exclusion of the candidate, Shri Rodrigues, learned Addl. Government Advocate, upon instructions, submits that besides the said Minutes, there are no other records found with the Respondent of the Selection Committee disclosing reasons. Not disclosing reasons itself shows arbitrariness in the decision making process which gravely impinges the rights guaranteed to the Petitioner under the provisions of law. The records also do not disclose the assessment criteria in the oral interviews of the candidates. The Respondent nos. 1 and 2 are expected to be reasonable and fair in dealing with the applications for such Scholarships or otherwise it would cause grave harm to the reputations and sensitivity of meritorious students. We find no semblance of any reasons disclosed by the Selection Committee to refuse the Scholarship to the Petitioner who otherwise had a very brilliant scholastic career as noted at exhibit P-4.

8. We have also to take note of the fact that such scholarships create opportunities for satisfying the careers of deserving brilliant students outside the traditional options for such students in local colleges. It enables the student to learn different cultures, heritage, better techniques in their professional careers which makes them realize their intellectual and creative abilities and encourage them to become better, matured, responsible professionals in their respective fields. It also gives them opportunities to gain knowledge across the entire spectrum of disciplines which would add to their understanding of their professional careers. Depriving the scholarship to a student without knowing the reasons nor the assessment of the interview would lead to very traumatic consequences to the up bringing of such students in their professional careers. As such involving a transparent and reasonable selection process, is up to the Committee so as to evaluate the merits of the candidates according to its own values. The Selection Committee, no doubt, is clothed with powers and is free to evolve its own pragmatic functional and viable process of carrying out their duties in selecting the deserving candidates for the subject scholarship. But, this of course is based on natural justice fair play in action, reasonableness in collecting decisional material, avoidance of arbitrariness and extraneous considerations. As such, conducting the interview of the candidates may not be bad but however the total absence of any indication of the criteria adopted in the decision making process can vitiate such action. Therefore, the Selection Committee is expected to record marks at the interviews and disclose the

guidelines for such marks and state the remarks about the candidate etc. If the court is skeptical, the records of the Selection proceedings including the notes regarding the interviews may have to be made available to the Court. Even though there is no ban, it is a rule of prudence that Court should hesitate to dislodge decisions of an academic and illustrious Selection Committees. But, however, such authorities are bound by the Rule of law and cannot be a law unto themselves. In the present case, as already pointed out herein above, the learned Additional Government Advocate has pointed out that there are no Minutes recorded by the Selection Committee nor was he in a position to disclose before this Court the assessment or the criteria evolved by the Committee for assessing the interview of the Petitioner. In such circumstances, we find that the Petitioner has been refused such Scholarships on untenable grounds which would call for interference by this Court under Article 226 of the Constitution of India.

9. It is not in dispute that the Respondent nos. 3 to 25 have already taken their respective admission in their Universities and are pursuing their studies. Granting relief as sought by the Petitioner to quash their selection would cause irretrievable injustice to the selected candidates. In such circumstances, we are not inclined to set aside the Selection of the Respondent nos. 3 to 25 but, however, as far as the Petitioner is concerned, we find it appropriate to direct the Respondent nos. 1 and 2 to consider the application of the Petitioner for the Scholarships for the year 2013-14 afresh in accordance with law.

10. In view of the above, we pass the following :

ORDER

(1) The Respondent nos. 1 and 2 are directed to consider the application of the Petitioner for Scholarship for the year 2013-14 afresh in the light of the observations herein above in accordance with law.

(2) Rule is made absolute in the above terms with no Orders as to costs.