

(2004) 04 RAJ CK 0075

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4107 of 2002

Khopade Jayendra Narsing

APPELLANT

Vs

Jai Narain Vyas University and Another

RESPONDENT

Date of Decision : 09-04-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 4 RLW 2707 : (2004) 3 WLC 475

Hon'ble Judges : Sunil Kumar Garg, J

Bench : Single Bench

Advocate : P.S. Bhati, for the Appellant; D.C. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Sunil Kumar Garg, J.—This writ petition under Article 226 of the Constitution of India has been filed by the petitioner against the respondents on 4.10.2002 with the prayer that by appropriate writ, order or direction, the order dated 28.5.2002 (Annex. 4) issued by the respondent Jai Narain Vyas University (for short "JNV University") by which the registration of the petitioner for Ph.D. in political Science and Public Administration was cancelled on the ground that he had passed the B.A. External in one year sitting from Osmania University and that one year BA degree was not equivalent to B.A. degree of JNV University, be quashed and set aside and the respondents be directed to enroll the petitioner as a candidate for the Ph.D. with effect from the date of his submitting synopsis with the respondent JNV University.

2. The case of the petitioner as put forward by him in this writ petition is as follows:-

The petitioner passed one year BA degree course from the Osmania University in the year 1995 and a copy of the mark sheet is marked as Annex. 1. Thereafter, he completed his post graduation from the University of Pune in the year 1998 and secured first division and a copy of the post graduation mark sheet is

marked as Annex. 2.

The further case of the petitioner is that on 1.4.2001, he contacted the Head of the Department of the Political Science of the respondent JNV University and finalized the topic after his approval for being a supervisor in the research work and thereafter, in May, 2001, he submitted the synopsis alongwith registration form and requisite fee as per directions of the supervisor.

The further case of the petitioner is that thereafter, in the month of February, 2002, he received a four point letter to submit his degree of post-graduation, migration certificate, income certificate and prescribed fee and in compliance of the said letter, he deposited the requisite fee and also submitted all other necessary details including his post graduation degree, but he was shocked to receive a letter dated 28.5.2002 (Annex. 4) stating that his registration for Ph.D. had been cancelled as he had passed the B.A. degree course from Osmania University in one sitting and that one year degree BA course was not equivalent to the JNV University.

The further case of the petitioner is that he personally met with the concerned authorities of the respondent JNV University and also made several representations, but of no avail. Hence, this writ petition with the prayer as stated above.

In this writ petition, the main contention of the petitioner is that he was eligible to be registered as Ph.D. student on the ground that he possessed a valid post graduation degree, which was necessary and essential for admission to the degree of Ph.D., as per Ph.D. Ordinances of the JNV University (Annex. 3). Furthermore, the petitioner passed the BA degree course from Osmania University in one sitting and that University is recognized one, therefore, that one year BA degree of the petitioner cannot be said to be invalid. Hence, cancellation of registration of the petitioner for Ph.D. through impugned order Annex. 4 was wholly arbitrary illegal and without jurisdiction.

A reply to the writ petition was filed by the respondents and it was submitted by them that since the petitioner passed his graduation (BA degree) from Osmania University in one sitting and that one year BA degree was not at par with the BA degree of JNV University, therefore, post graduation, if any, done after one year BA degree course, was automatically void in the eye of law.

It was further submitted by the respondents that through letter Annex. R/I dated 4.8.1995, Dy. Secretary of the Association of Indian Universities, New Delhi informed the respondent JNV University that BA examination (External) of the Board of External Studies, Osmania University, Hyderabad was a recognized examination, but it was not covered under 10 + 2 + 3 pattern of education and the respondent JNV University was advised to decide the case accordingly.

It was further submitted by the respondents that thereafter, the said letter Annex. R/I dated 4.8.1995 was placed before the Equivalence Committee of the

respondent JNV University and the Equivalence Committee in its meeting held on 26.8.1995 considered the said letter Annex. R/1 and passed the following resolution;-

"The Committee considered the letter No. EV/II/(449)/95/86469 dated 4.8.95 from the Deputy Secretary, Association of Indian Universities, New Delhi regarding equivalence of B.A. Examination (External) Osmania University, Hyderabad. The Committee noted that the AIU has stated that the BA Examination (External) of Osmania University, Hyderabad is not covered under 10 + 2+3 Education.

It was FURTHER RESOLVED that this examination will not be treated as equivalent to B.A. Examination of Jai Narain Vyas University, Jodhpur."

A copy of the minutes of the meeting of the Equivalence Committee held on 26.8.1995 is marked as Annex. R/2.

It was further submitted by the respondents that thereafter, a Notification Annex. R/3 dated 1.8.1997 was issued by the respondent JNV University, in which it was clearly stated that students, who had passed BA, B.Com. in one sitting from Osmania University, would not be allowed admission in PC, and L.L.B. Part-1 of JNV University.

It was further submitted by the respondents that a similar issue was decided by the Division Bench of this Court through judgment dated 24th November, 2000 (Annex.R/4) in D.B. Civil Special Appeal No. 1050/2000 JNV University and Anr. v. Smt. Kesar and Anr. (1), but the benefit was given to the respondent No. 1 of that case because of the simple reason that she had completed her studies, but it was made clear that this would not be treated as a precedent in other cases, meaning thereby the case of the respondents as put forward by them in their reply was accepted by the Division Bench of this Court in respect of one year BA degree of Osmania University on the point that it was not to be treated as par with the BA degree of JNV University.

It was further submitted by the respondents that on the application of the petitioner, his case was reconsidered by Research Board in its meeting held on 4.5.2002 and the Research Board resolved to cancel the registration of the petitioner for Ph.D. as he had passed the BA External in one year sitting which was not equivalent to BA of the JNV University.

It was further submitted by the respondents that the application of the petitioner for registration for Ph.D. was entertained on the basis of his post graduation degree from University of Pune and since at that time, Annex. 1 one year BA degree course from Osmania University was not produced, therefore, the petitioner Was registered as Ph.D. student. However, as soon as the respondents came to know about the one year BA degree of the petitioner from Osmania University, his registration for Ph.D. was cancelled.

It was further submitted by the respondents that the case of the petitioner was

considered twice by the authorities of the respondent JNV University and after consideration, he was not found eligible to be registered as W.D., student as he had passed B.A. External in one year sitting from Osmania University and that one year BA degree was not equivalent to the BA degree of JNV University. Hence, no case for interference is made out and this writ petition deserves to be dismissed.

A rejoinder was also filed by the petitioner and he has placed on record a UGC letter dated 25.2.1997/4.3.1997 (Annex. 8) where it was decided by the Commission stated that the degrees of the candidates enrolled for the one time Bachelor's Degree Programme upto the year 1995-96 may be treated as valid and that decision was made applicable to all the Universities, who are running one sitting degree courses and placing reliance on the UGC letter Annex. 8, it was submitted by the petitioner that since one-time Bachelor's degree was found valid upto 1995-96 and the petitioner passed one year BA degree from Osmania University in 1995 through Annex. 1, therefore, his one year BA degree Annex. 1 should be treated at par with the BA degree of JNV University. Hence, the matter be re-considered in the light of the UGC letter Annex. 8 and the respondents be directed to enrol the petitioner as Ph.D. student.

3. I have heard the learned counsel for the petitioner and the learned counsel for the respondents and gone through the materials available on record.

4. There is no dispute on the point that through Annex. 1, the petitioner passed BA degree course from Osmania University in the year 1995 in one sitting.

5. There is also no dispute on the point that the one year BA degree course passed by the petitioner from Osmania University in the year 1995 through Annex. 1 is not at par with the BA degree course of the respondent JNV University.

6. There is also no dispute on the point that the petitioner was first enrolled as Ph.D. candidate on the basis of his post graduation degree (Annex. 2) from University of Pune. .

7. There is also no dispute on the point that through letter Annex. R/I dated 1.8.1995, Dy. Secretary of the Association of Indian Universities, New Delhi informed the respondent JNV University that BA examination (External) of the Board of External Studies, Osmania University, Hyderabad was a recognized examination, but it was not covered under 10 + 2+3 pattern of education and the respondent JNV University was advised to decide the case accordingly.

8. There is also no dispute on the point that through Annex. R/2, the said letter Annex. R/I dated 4.8.1995 was considered by-the Equivalence Committee of the respondent JNV University consisting of five members and the Equivalence Committee resolved that since BA examination (External) of Osmania University, Hyderabad was not covered under 10+2+3 Education therefore, that examination would not be treated as equivalent to B.A. Examination of Jai Narain

Vyas University, Jodhpur.

9. There is also no dispute on the point that thereafter through Notification Annex. R/3 dated 1.8.1997, the respondent JNV University ordered that the students who had passed BA/B.Com. (one sitting External from Osmania University, Hyderabad) be not allowed admission in PG and L.L.B. Part-I of JNV University.

10. There is also no dispute on the point that in the Division Bench judgment of this Court dated 24.11.2000 (Annex. R/4), one year BA degree from the Osmania University was not found at par with BA degree of JNV University as that one year BA degree was not covered under the Scheme 10 + 2 + 3 pattern.

11. There is also no dispute on the point that on the application of the petitioner, his case was reconsidered by the Research Board of the respondent JNV University in its meeting held on 4.5.2002 through Annex. R/5 and the Research Board resolved that the registration of the petitioner for PH.D. be cancelled as he had passed the BA External in one year sitting, which was not equivalent to BA of JNV University.

12. Thus, from the above, it is very much clear that the case of the petitioner was considered twice first by the Equivalence Committee through Annex. R/2 and thereafter, by Research Board through Annex. R/5 and both the authorities of the respondent JNV University found that the petitioner was not eligible to be registered as PH.D. candidate as he had passed one year BA degree from Osmania University in one sitting and that one year BA degree was not at par with the BA degree of JNV University.

13. It may be stated here that in matters relating to the internal working of an educational institution (say, the matter of admission) and academic matters, the Court will not interfere unless the act complained of is clearly beyond jurisdiction; or contrary to the statute, rules or regulations governing the institution; or the Constitution or there is a statutory duty which the authority has failed to perform or the impugned act is mala fide or violative of natural justice."

14. It may further be stated here that educational authorities should be left without interference from the Courts and other outside agencies in administering their disciplinary jurisdiction over the examinees as long as they act in compliance with the rules of natural justice. The Courts in exercise of their writ jurisdiction are reluctant to interfere in the exercise of discretion of the educational authorities in the absence of strong reasons like contravention of law or statutory regulations governing the examinations.

15. The Courts have generally set certain limitations and self-imposed restrictions on the exercise of their discretionary power under Article 226 qua the decisions of academic bodies. The courts have consistently kept their hands off the high academic bodies unless flagrant violation of fair play based on bias or

malafides is established. The High Court will be reluctant to interfere with the administrative and disciplinary matter unless it thinks that there has been a blatant deviation of any law.

16. Furthermore, the propriety or otherwise of a student's cancellation of examination or enrolment will justify scrutiny under Article 226 only when the materials placed before the Court show denial of basic human rights or violation of the principles of natural justice or glaring discrimination or bias or malafides.

17. In the present case, there is no violation on principles of natural justice nor it can be said that the respondents acted with malafides or bias against the petitioner in cancelling his enrolment or registration for Ph.D. The action of the respondents in cancelling the registration of the petitioner for Ph.D. cannot be said to be arbitrary, illegal and without jurisdiction. The case of the petitioner was examined twice by the authorities of the respondent JNV University i.e. Equivalence Committee and the Research Board and both the authorities found that the petitioner was not eligible to be registered as PH.D. candidate and therefore, resolved to cancel his registration, as his one year BA degree from Osmania University was not equivalent and at par (sic) the BA degree of the JNV University and the decision of the authorities in cancelling the registration of the petitioner for Ph.D. cannot be said to be arbitrary, illegal or without jurisdiction.

18. In *University of Mysore v. Govinda Rao and Anr.* (2), the Hon'ble Supreme Court held that in academic matters regarding equivalence of university degrees, the Court would not express its opinion. From this point of view also, this Court would not substitute its own opinion in respect of one year BA degree of the Osmania University.

19. For the reasons stated above, no interference is called in this writ petition and the same deserves to be dismissed.

20. So far as the ruling relied upon by the learned counsel for the petitioner in *Kumari Anita Tripathi v. University of Raj. and Ors.* (3), is concerned, that ruling would not be helpful to the petitioner because in that case, the admission was cancelled without referring the matter to Academic Council, while in the present case, the matter of the petitioner was examined twice by the concerned authorities of the JNV University. Hence, the above ruling would not come to help the petitioner.

21. So far as the UGC letter Annex. 8 is concerned, it may be stated here that since the UGC letter Annex. 8 pertained to the year 1997 while the impugned order Annex. 4 was passed in the year 2002, therefore, this Court would not interfere with the impugned order Annex. 4 under Article 226 of the Constitution of India merely on the basis of the UGC letter Annex. 8 which was issued in the year 1997.

22. However, it is for the petitioner to approach the respondents and make a request that his matter may be re-examined in the light of the UGC letter Annex.

8 and if he does so, the respondents would be free to take a decision and this order would not come in their way.

23. Accordingly, this writ petition filed by the petitioner is dismissed. No order as to costs.