
(1996) 10 DEL CK 0063

In the Delhi High Court

Case No : Civil Writ Petition No. 2660 of 1996 and Civil Miscellaneous Appeal No. 4670 of 1996

Komal Mittal

APPELLANT

Vs

University of Delhi

RESPONDENT

Date of Decision : 10-10-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 5 AD 351 : (1996) 39 DRJ 810

Hon'ble Judges : Chander Mohan Nayar, J

Bench : Single Bench

Advocate : Geeta Mittal, S.K. Kaul, N.S. Tambwekar, S.K. Luthra and Ayesha Khan, for the Appellant;

Judgement

C.M. Nayar, J.

(1) The present petition is directed against respondent No.2 for an appropriate writ, order and direction for declaration that the inclusion of English or Hindi marks for the purpose of calculation of the percentage of marks obtained by a candidate in computing the merit for grant of admission to B.Com.(Hons) is arbitrary, illegal and unjustified..

(2) The brief facts of the case are that the petitioner passed All India Senior Secondary School Certificate Examination, 1996 and obtained the following marks out of the maximum prescribed 100 marks: .IsI

English core 58 Economics 96 Mathematics 94 Business Studies 79 Accountancy 90

(3) The petitioner applied to respondent No.2 College for registration and admission to B.Com.(Hons) course for the academic session 1996-97. It is alleged that the aforesaid marks obtained by the petitioner, if evaluated on the basis of the relevant subjects for the course of B.Com.(Hons) i.e. Economics, Mathematics, Business Studies and Accountancy, the petitioner will be entitled to

admission as she has secured 359 out of 400 marks in these subjects which brings her percentage to 89.75 per cent. In case the aggregate of all the five subjects including 58 marks given to the petitioner in English Core is considered the percentage of marks would drop to 83.40 per cent.

(4) The procedure for admission for Graduate Courses including B.Com.(Hons) has been stipulated by respondent No.1 vide letter dated June 3, 1996. The copy of this communication is filed as Annexure Iii to the writ petition and it is contended that the procedure has been issued by the Registrar of respondent No.1 to all Colleges including that of respondent No.2 and is binding on them. Relevant provisions on which reliance has been placed are contained in Clauses 4 and 5 which read as follows:

"4.All admissions to B.A.(Pass) - Vocational Studies, B.Com.(Pass)/B.Sc. (Genl.)/ B.Sc.Mathematical Sciences courses shall be done strictly according to merit on the basis of percentage of marks secured by the students in one language including Sanskrit and three best elective subjects relevant to the course applied for, 5. The admission to B.Com.(Pass). B.A. (Hons.) and B.Com.(Hons.) Courses be on the basis of marks. However, the Colleges may give weightage of marks obtained in one or more relevant individual subjects in addition to the aggregate marks of the qualifying examination. But whenever weightage is proposed to be given in any individual subject(s) by the College, it should be notified sufficiently in advance to the students through the College prospectus/ Notice Board so that applicants seeking admission know in advance the basis of admission." In the present case respondent No.2 College has formulated its criteria for admission to B.Com.(Hons) as stated in the prospectus in the following matter: "B.COM. (HONOURS) The position of candidates with different combinations of subjects at the qualifying examination 1995-96 for admission to the B.Com.(Hons.) course during the academic year 1996-97 would, be determined by the following criteria: A.Senior School Certificate Examination (12 years) or Equivalent Examination with one paper each in Accountancy, Commerce, Economics and Mathematics. (0) B.Senior School Certificate Examination (12 years) or Equivalent Examination with three papers from amongst Accountancy, Commerce, Economics and Mathematics. (-)2 C.Senior School Certificate Examination (12 years) or Equivalent Examination with any two papers from amongst Accountancy, Commerce. Economics and Mathematics. (-)4 D. Senior School Certificate Examination (12 years) or Equivalent Examination with any one paper from amongst Accountancy, Commerce, Economics and Mathematics. (-)5 E. Others. (-)8 (To elucidate, if candidate in category E has 94% marks, his/ her marks are equivalent to 86% marks in category A). The cut-off point of category A for the academic year 1995-96 was 86%. Only those subjects will counted for determining the aforesaid categories in which a candidate has secured at least 50% marks. The percentage of marks, from which figures given above will be subtracted to arrive at the equivalence, will be calculated on the basis of four subjects as follows: (i) English or Hindi, and (ii) Three best elective subjects in the qualifying examination with the condition that the elective

subjects would not include any language other than English or Hindi, Art, Needle-work and Dress Making, Cookery, Physical - Education, Home Science, Music, Typing and Shorthand and like subjects."

(5) The main grievance of the petitioner is that there is clear violation of the letter dated June 3, 1996 issued by University of Delhi. It is, accordingly, argued that as per the stipulation of respondent No.1, the admission to B.Com(Hons) Course would be on the basis of the marks obtained by a candidate. However, discretion has been given to the College only to give weight- age of marks obtained in one or more relevant individual subjects in addition to the aggregate marks for the qualifying examination. The respondent College was in error to include the marks obtained by the petitioner in English language and three out of four other subjects which will be against the purpose and requirement of the course as language is by no means of any importance and has not been given any credit in the entire scheme of the examination. In case the petitioner was considered on that basis she obviously would have got admission to respondent No.2 college due to her obtaining high percentage of marks in the relevant subjects. The weightage which was being given to the English or Hindi language has no nexus to the scheme or purpose of the course. Therefore, respondent No.2 could not have provided a condition to consider three best elective subjects and English or Hindi to arrive at the calculation.

(6) Counter affidavit has been filed on behalf of respondent No.2 wherein it is reiterated that the petitioner as a student (a) cannot adopt the basis on which the marks obtained by her are to be evaluated (b) Rules of admission as clearly provided in the prospectus of the College apply to all students seeking admission uniformly, the marks obtained by the petitioner did not make her eligible on the basis as laid down in the prospectus; (c) the inclusion of English or Hindi for calculating the percentage of marks to be taken into account for granting admission is neither arbitrary nor unjustified. The English language has a direct nexus and connection with the subjects taught in B.Com. (Hons) course as it is the medium in which each subject of B.Com.(Hons) is being taught.

(7) The petitioner has strongly relied on the provisions of clauses 4 and 5 relating to "procedure for admission to B.A.(Pass)/B.A. (Vocational Studies)/ B.Com.(Pass)/B.A.(Hons)/B.Com.(Hons)/B.Sc.(Genl)/B.Sc.(Hons)/B.Sc. Mathematical Sciences Courses during the academic session 1996-97. The reading of clause 4 will indicate that admission to specified courses shall be done strictly according to merits on the basis of percentage of marks secured by the student in one language including Sanskrit and three best elective subjects relevant to the course applied for. Clause 5 stipulates that admission to B.Com. (Hons) with which this petition is concerned will be on the basis of marks. The College may give weightage of marks in one or more relevant individual subjects in addition to the aggregate marks of the qualifying examination. The latter part of this clause further lays down that whenever weightage is proposed to be given in any individual subject by the College, it should be notified sufficiently in

advance to the students through the college prospectus/notice Board. It is, Therefore, clear that the concerned College vested with the discretion of adopting the criteria of weightage in one or more relevant individual subjects in addition to the aggregate marks. In the present case the prospectus clearly specifies the basis of calculation of marks which in the case of the petitioner is (i) English (ii) three best elective subjects in the qualifying examination. The contention that the provision in the prospectus is contrary to the direction of the University cannot be sustained as some element of discretion is vested in the College to lay down its own criteria which cannot be held to be arbitrary as it does not run counter to the guidelines as framed by the University of Delhi. This provision has been consistently followed and applied uniformly to all the applicants not for this academic year but for earlier years as well. Moreover, such matters are best left to the decision of the academic bodies and it will not be open for this Court to substitute its own guidelines with the guidelines as framed by the University and the College. The other candidates apart from the petitioner have also been treated in the similar manner on the same interpretation of the regulations.

(8) The learned counsel for the petitioner has strongly relied upon the judgments as reported in *Miss Arti Sapru and Others Vs. State of Jammu & Kashmir and Others*, and *Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others*, . These cases will have no application to the facts arising in the present case as respondent No.2 has not made admissions by ignoring the rules applicable to such admissions. The petitioner as well as other candidates have been treated in the same manner and no arbitrariness has resulted. The Educational Institutions have always an option to follow one criteria which in its opinion is sounder than the other. There can be no cause for interference in such matters. Reference may be made to paragraph 4 of the judgment as reported in *Archana Saxena Vs. Maharshi Dayanand University, Rohtak and Others*, which reads as under:

"4.It is obvious that weight ages are given by the University to its students to further institutional preference a phenomenon which has come to stay. yet the principle of fairness cannot be overlooked despite the element of competition existing in determining the added weightage. Both the contended principles, as it appears to us, are equally sound. There is something to say in favor of weightage on the obtained percentage and equally there is something to be said in favor of the principle of percentage on total marks. If out of the two sound principles the University in its view has specifically chosen to opt for one (in its own way sounder) we see no room to interfere in the matter, all the more under Art. 226 of the Constitution. Inevitably, we have to reject the contention of the petitioner despite the illustration given of following the other principle in a college affiliated to the University."

(9) There is, Therefore, no element of injustice or inequality which has been brought to my notice that will call for interference in exercise of extra-ordinary

jurisdiction of this Court under Article 226 of the Constitution of India. The writ petition, as a consequence, is dismissed. There will be no order as to costs.