
(2014) 07 MP CK 0248
In the Madhya Pradesh High Court
Case No : Writ Petition No. 661/2011(S)

Ku. Rajni Kushwah

APPELLANT

Vs

The State of M.P.

RESPONDENT

Date of Decision : 04-07-2014

Acts Referred:

Chhattisgarh Niji Kshetra Vishwavidhyalaya (Sthapana Aur Viniyaman) Adhiniyam,
2002 — Section 25

Citation : (2014) 07 MP CK 0248

Hon'ble Judges : P.K. Jaiswal, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

P.K. Jaiswal, J.—The petitioner is aggrieved by action of the respondents, whereby the respondents have rejected the candidature of the petitioner on the ground that the certificate of Diploma in Computer Application obtained by the petitioner from Dr. C.V. Raman University, Bilaspur is not a duly recognized University. This matter was considered by learned Single Judge of this Court in the case of Dharmendra Singh Verma and Anr. Vs. State of MP and Others [WP No. 1883/2010(S)]. Learned Single Judge of this Court vide order dated 14-12-2010 disposed of the aforesaid writ petition with the following directions:-

(i) The impugned Order issued by the authority refusing the computer qualification of the petitioners is hereby quashed.

(ii) It is held that one year diploma certificate in Computer Application issued by Dr. C.V. Raman University, Bilaspur in favour of the petitioners is valid one in consonance with Clause 1.8 of the Educational Qualification of the Rules of 2008 for the purpose of appointment to the post of Patwari.

(iii) It is further observed that the appointing authority is at liberty to verify the factum about the genuineness of the certificates produced the petitioners and the fact whether the petitioners obtained certificates as per law or not. For the

aforesaid purpose, 15 days" time is granted to the respondents.

(iv) The petitioners shall be permitted to participate in the training and they shall also be sent for training in accordance with their placement in the selection list. Those candidates who have already been sent for training, shall be eligible to complete the training in accordance with law.

(v) Seniority of the petitioners to the post of Patwari shall be maintained in accordance with their placement in the selection list.

(vi) The order be complied with within a period of four weeks from the date of receipt of a certified copy of the order.

CC as per rules.

2. Thereafter, Division Bench of this Court at Gwalior in Writ Appeal No. 260/2010 [Ravi Prakash Bargava and Others Vs. State of MP & Others] and other connected Writ Appeals, has considered the matter whether the certificate of Diploma in Computer Application obtained from Dr. C.V. Raman University, Bilaspur is valid or not and has passed the following judgment on 01/07/2014:-

The appellants have filed these appeals against the common order dt. 14.5.2013 passed in W.P. Nos. 4897/2012 and 587/2012.

2. The question for consideration in these writ appeals is that whether the certificate issued by the Chhattisgarh University, Raipur or Dr. C.V. Raman University, Bilaspur is valid or not.

3. M.P. Professional Examination Board initiated process for recruitment to the post of Patwari and the examination was conducted in this regard in the year 2008. The appellants-candidates appeared in the examination. They passed the written examination. One of the necessary qualification for appointment to the post of Patwari is Diploma or Post Graduate Diploma in Computer Application. At the time of counseling, the appellants-candidates did not submit Diploma Certificate obtained by them from Chhattisgarh University, Raipur or Dr. C.V. Raman University Bilaspur. Subsequently they submitted Diploma Certificate. The aforesaid qualification, as pleaded by the appellants-candidates was obtained from distance learning programme. Writ Court issued directions to consider the case of the appellants-candidates. Thereafter, concerned Collectors considered the cases of the appellants-candidates and found that Diploma Certificates submitted by the appellants were not proper. Consequently, the candidature of the appellants for appointment to the post of Patwari was rejected on the ground that they did not have the requisite qualification.

4. The appellants challenged the aforesaid decision of the concerned Collectors in writ petitions. Writ Court dismissed the writ petitions after holding that the certificates obtained by the appellants-candidates were not genuine and the respective universities had no appropriate recognition in regard to issuance of such certificates. Writ Court also quoted the finding recorded by the Collector to

the effect that an employee was sent to verify the fact that whether Chhattisgarh University Raipur was in existence and he found that there was no office of Chhattisgarh University and the required documents including cash book, fees deposit register were also not shown to the inspecting team. A Panchnama was also prepared containing the signatures of Sarpanch, Tahsildar, Patwari and other villagers and as per the aforesaid Panchnama, there was no university functioning at the place for the last five years. Apart from this, Chhattisgarh University Raipur or Dr. C.V. Raman University Bilaspur did not receive recognition for imparting education through distance learning programme. Dr. C.V. Raman University, Bilaspur was granted recognition for one academic year 2009-10, however, the expert committee did not visit the University. Relevant letter has been quoted by the writ court in para 17 of the order, which is as under:-

DEC/GEN/303-6886

02/09/2011

To,

The District Collector's Shivpuri; District Madhya Pradesh

Sub: regarding recognition status of Chhattisgarh University and Dr. C.V. Raman University.

Ref: your office letter 829/...2011, dated 29/08/2011.

Sir, This has reference to your letter cited above seeking recognition status of Chhattisgarh University, and Dr. C.V. Raman University, Raipur, Chhattisgarh for the years 2004-05, 2005-06, 2006-07, and 2007-08.

As per the record available in DEC Chhattisgarh University, Raipur has not applied for recognition. The Distance Education Council has not given recognition to Chhattisgarh University to run the programme through distance mode.

With regard to Dr. C.V. Raman University, Raipur, DEC has given recognition for the programmes approved by its statutory bodies for one academic year i.e., 2009-10 and till the period Expert Committee visits University and submits its recommendation to DEC. The Expert Committee visit is yet to take place.

This is for your information please.

Yours Faithfully

(Nalini Lele) Director, DEC

5. The University Grants Commission (UGC) brought into force the UGC (Establishment or and Maintenance of Standards in Private Universities) Regulations, 2003. As per the aforesaid regulation, the off-campus centres or the study centres can be set up with the prior approval of the UGC and that of the State Governments. In the case no such prior approval was obtained. In this

regard finding has been recorded by the writ court and it has not been controverted by the appellants in the appeals. Chhattisgarh University was established on 30.8.2003 and it was ceased to exist on account of de-notification w.e.f. 20.7.2004. Similarly, Dr. C.V. Raman University Bilaspur was also functioning for a brief period and after judgment of the Hon"ble Supreme Court, these universities were de-notified.

6. State of Chhattisgarh enacted an Act named as Chhattisgarh Niji Kshetra Vishwavidyalaya (Sthapana Aur Viniyaman) Adhiniyam 2001 (hereinafter referred to "Adhiniyam of 2001"), an Act to provide for the establishment of self financed Private Universities for imparting Higher Education. As per the aforesaid Act, there shall be a Chancellor, Vice Chancellor, Registrar and other officers of the University and Board of Management. The University shall also have statute in accordance with Section 25 of the Adhiniyam of 2001, which is as under:-

25. First Statutes.- (1) Subject to the provisions of this Adhiniyam and the rules, the First Statutes of the University may provide for all or any of following matters, namely:-

- (a) the constitution, powers and functions of the authorities and other bodies of the Universities as may be constituted from time to time;
- (b) the terms and conditions of appointment of the Vice-chancellor and his powers and functions;
- (c) the terms and conditions of appointment of the Registrar and Chief Finance and Accounts Officer and their powers and functions;
- (d) the terms and conditions of appointment of other officers and members of the Faculty and their powers and functions;
- (e) the terms and conditions of service of employees of the University;
- (f) the procedure for arbitration in case of disputes between officers, members of the Faculty, employees and students;
- (g) the conferment of honorary degrees;
- (h) provision regarding exemption from tuition fee and awarding scholarships;
- (i) provision regarding the policy of admission including regulation of reservation of seats;
- (j) provision regarding fees to be charged from students;
- (k) provision regarding number of seats in different syllabus;

Provided that the University shall not make any statute relating to charging of donation or capitation fee from the students without the prior approval of the State Government.

(2) The first Statutes of the University shall be made by the Governing Body and

shall be submitted to the State Government for approval.

(3) The State Government shall consider the First Statutes submitted by the University within two months from the date of its receipt and shall give its approval with such modification as it may deem necessary.

(4) The University shall communicate its agreement to the First Statutes as approved by the State Government, and if it desires not to give effect to the modifications made by the State Government under sub-section (3), it may give the reasons therefor and the State Government may or may not accept the suggestions made by the University.

(5) The State Government shall publish the First Statutes as finally approved by it in the official gazette and thereafter such statutes shall come into force.

7. There is no document on record to the effect that Chhattisgarh University or Dr. C.V. Raman University had proper documents and Statutes in accordance with the Adhiniyam of 2001. There is no pleading in this regard in the writ petitions by the appellants or Chhattisgarh University.

8. The contention of the appellants is that they got certificates from distance learning programme from Chhattisgarh University or Dr. C.V. Raman University, hence, they have the requisite qualification.

9. Prima facie, we are of the opinion that simply certificates were issued to the appellants by the concerned Universities, although the Universities have had no such power to issue certificate. Hence, the concerned Collectors have rightly held that the appellants did not have the requisite qualification. Learned Writ Court has also considered the facts again and upheld the orders passed by the concerned Collectors. In our opinion, the order passed by the writ court is in accordance with law. It does not call for any interference. We do not find any merit in all these appeals. They are hereby dismissed.

No order as to costs.

In view of the aforesaid, nothing survives in this writ petition and, therefore, this writ petition is disposed of in terms of the order dated 01/07/2014 passed in Writ Appeal No. 260/2013 (supra). No order as to costs.