
(2013) 02 RAJ CK 0105
In the Rajasthan High Court
Case No : Civil Writ Petition No. 5638 of 2012

Laxmi Mehata

APPELLANT

Vs

Registrar, Dr. Sarvepalli Radhakrishanan Ayurved University

RESPONDENT

Date of Decision : 21-02-2013

Acts Referred:

Citation : (2013) 3 CDR 1322 : (2014) 2 RLW 1091 : (2013) 2 WLN 15

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : R.C. Joshi, for the Appellant; Sandeep Bhandawat, for the Respondent No. 1, University, for the Respondent

Final Decision : Allowed

Judgement

Vineet Kothari, J.—This is an unfortunate litigation by a student-Laxmi Mehata who applied for admission to the course of B.A.M.S (1st Commercial) on 20/10/2011 for becoming a graduate of the Ayurvedic Medicine & Surgery conducted by the respondent No. 1 -- Dr. Sarvapalli Radhakrishanan Ayurved University, Jodhpur, whose one of the affiliated colleges is, respondent No. 3 -- Shri Bhanwarlal Dugar Ayurved Vishwabharti Sardarshahar, Distt. Churu. The petitioner is undoubtedly a meritorious student having obtained 82.92% in Secondary Examination and 66.92% in Senior Secondary Examination, which is the minimum qualification for admission to the said course of B.A.M.S. After making such application on 20/10/2011, when the petitioner approached the respondent No. 3 college on 29/10/2011, she was asked to deposit the special and higher fees of Rs. 1.80 lacs for seeking admission in the said course under NRI quota. She immediately deposited the said fees vide Annex.2 receipt No. 2009 dated 29/10/2011 issued by the respondent No. 3 College. On 9/12/2011, the respondent No. 3 College issued another office order informing the petitioner to deposit the remaining installments of fees of Rs. 2 lacs due for July 2012, July 2013 and July, 2014 respectively and she was asked to give post dated cheques or bank guarantee of the aforesaid installments upto 20/1/2012.

2. Thereafter, the petitioner started taking classes for the said course and was pursuing her course in the respondent No. 3 College. Vide communication Annex.4 dated 14/12/2011 addressed to respondent No. 1 -- University by the Principal/Director of respondent No. 3 College, the Principal/Director of the said college informed the Ayurved University that in the meeting for admission held on 22/10/2011, the application of the present petitioner--Laxmi Mehta, inadvertently due to clerical mistake, could not be placed before said Committee and when on 29/10/2011 the petitioner along with her parents met the said Director, it was informed that since the last date for admission was 30/10/2011, therefore, it was not possible to reconvene the meeting for admission and, thus the petitioner was admitted on 29/10/2011 and telephonic information to this effect was given to the nominated member Dr. Omprakash Dadhich and the University was also requested to include the name of present petitioner in the list of admitted candidates.

3. Vide Annex.5 communication of the Ayurved University dated 23/12/2011 the respondent No. 3 College was informed that since the name of petitioner is not in the list of admitted candidates as per the meeting held on 22/10/2011, her admission in the said course shall be treated as cancelled and respondent No. 3 College may enquire in the matter as to how she was admitted in the course. This communication was replied by the respondent No. 3 College vide Annex.6 dated 17/1/2012 requesting the respondent No. 1 University to reconsider the case of the petitioner, since the petitioner stood higher in the merit and her application could not be placed before the admission committee on 22/10/2011 on account of clerical mistake of the clerk concerned, whose explanation was also separately forwarded to the University. It was clarified in the said communication Annex. 6 dated 17/1/2012 that though the application of the petitioner was received on 20/10/2011 i.e. before the meeting of admission committee on 22/10/2011 but on account of clerical mistake the said application could not be placed before the said committee and on 29/10/2011 itself the Principal of respondent No. 3, College, Dr. Nagesh Kumar had contacted Dr. Om Prakash Dadhich of respondent University informing him about the merit of the petitioner and as per the marks obtained by her, she stood at serial No. 4 in the list of candidates admitted on 22/10/2011, whereby, 8 students were admitted in the said course in NRI quota and by 20/10/2011 nobody else higher in merit than the petitioner had applied the respondent College for admission, therefore, after taking the consent from the nominated member of the respondent No. 1 University, the respondent No. 3 College had admitted the present petitioner to the said course, since one seat was available with them and accordingly, the petitioner was required and asked to pay the higher fees of Rs. 1.80 lacs, which the petitioner deposited immediately. The respondent No. 3 College, therefore, requested the respondent No. 1 University to treat the admission of petitioner as regular otherwise the career of the petitioner would be jeopardized.

4. Vide Annex.7 dated 31/1/2012, the respondent No. 1 University again reiterated the same stand and informed the respondent No. 3 College that since

the petitioner's name was not in the list of 8 candidates admitted in NRI quota on 22/10/2011 and the information of her admission on 29/10/2011 was communicated belatedly vide letter No. 431 dated 14/12/2011, therefore, her admission could not be regularized and the said appeal/representation of respondent No. 3 College affiliated to respondent No. 1 University was, thus, rejected. The respondent No. 3 College again urged the respondent University vide Annex.8 dated 22/2/2012 that the petitioner had already undergone the studies for about three months and cancelling her admission now will put a serious question mark on her career for no fault of her and, therefore, the respondent University should reconsider the case of petitioner for regularization of her admission.

5. The respondent Ayurved University again vide communication dated 28/2/2012 (Annex.9) informed the respondent No. 3 College that in view of earlier letter dated 31/1/2012 there was no justification for regularization of admission of the present petitioner.

6. For the first time after all these correspondence between respondent No. 1 University and respondent No. 3 College, the bolt from the blue hit the petitioner vide Annex. 10 dated 29/2/2012 when she was informed by the Director of the respondent No. 3 College that respondent Ayurved University has not agreed to regularise her admission and, therefore, her admission in NRI quota granted on 29/10/2011 is treated as cancelled and that is how the budding career and ongoing course of the petitioner was sought to be put to an end by this communication.

7. The petitioner did not relent in the matter and approached this Court by way of SBCWP No. 3087/2012 (Lakshmi Mehata vs. Registrar, Dr. Sarvapalli Radhakrishnan Ayurved University, Jodhpur & Ors.) & after hearing the learned counsels for the parties, a coordinate bench of this Court disposed of the said writ petition with a direction to the respondent University to again decide the matter with regard to admission of the petitioner and it was also stated that in the event of rejection of grievance raised by the petitioner, the petitioner will be at liberty to file fresh writ petition. The short order of the coordinate bench dated 13/4/2012 is quoted below for ready reference:

Heard learned counsel for the parties.

The grievance of the petitioner has already been raised by the Gandhi Vidhya Mandir, Sardarshahar before the University while sending communication dated 22.02.2012, therefore, this writ petition is disposed of with the direction to the University to decide the matter with regard to the admission of the petitioner afresh as narrated in the communication dated 22.02.2012 by the institution within a period of fifteen days from the date of receipt of certified copy of this order. It is made clear that in the event of rejection of grievance raised by the petitioner and University denies admission to the petitioner, the petitioner will be at liberty to file fresh writ petition.

8. The respondent No. 3 College again undertook the matter with the Registrar of the University by making a detailed representation on 25/4/2012 (Annex.12) and with regard to the order passed by this Court again requested the respondent Ayurved University to regularise the admission of the petitioner in view of the circumstances already narrated above, which indicated no fault on the part of the petitioner. The respondent No. 3 College vide para 12 of the said representation submitted that it was on account of clerical mistake on the part of the respondent No. 3 College and, therefore, the respondent No. 3 College would take all care not to repeat such mistake in future, but the cancellation of the admission of the petitioner would cause irreparable loss to her as she would have definitely stood at serial No. 2 in the merit list of the candidates prepared on 22/10/2011 had she been present on 22/10/2011, for which she had obviously no notice. Still this representation in the light of directions of this Court fell on deaf ears and the respondent University in a very cursory manner informed the respondent No. 3 College that the communication dated 31/1/2012 rejecting the admission of the petitioner has already been sent to the College and even the High Court has not granted any relief to the petitioner in the writ petition filed by her and, therefore, it is not possible to regularise her admission. The respondent No. 3 College again informed the petitioner that the respondent Ayurved University has rejected her case on 9/5/2012 and, therefore, cancellation of her admission may be treated as final.

9. Aggrieved of this, the petitioner again preferred this writ petition on 28/5/2012 and the matter was directed to be listed for admission before the Court on 30/5/2012. On 30/5/2012, the matter was directed to be placed after summer vacations. On 9/7/2012, the matter was again directed to be placed after four weeks and likewise again on 10/7/2012, 18/8/2012, 29/10/2012, 31/10/2012 & 3/12/12 the matter kept on rolling and the Court did not have time to even hear the matter for admission. On 11/1/2013, Mr. Sandeep Bhandawat appearing for the respondent Ayurved University was directed to accept notice and counsel for the petitioner was directed to supply copy of writ petition with annexures to Mr. Bhandawat, who was further directed to take instructions in the matter from the University and matter was kept on 15/1/2013. On 15/1/2013, the matter was listed without showing the name of Mr. Sandeep Bhandawat in the cause list and none was present even for the petitioner, therefore, it was directed that matter be placed after one week after showing the name of Mr. Sandeep Bhandawat for the respondent University. On 28/1/2013, the office somehow gave a long date in the matter to be listed on 4/4/2013. The learned counsel for the petitioner, therefore, filed I.A. No. 749/2013 on 8/2/2013 for proponing the date in the matter in view of urgency in the case and on this application the matter was placed again before this Court today i.e. 21/2/2013. After perusal of the documents on record and hearing the learned counsels for the parties, it is very clear that the petitioner became the victim of sheer apathy of the respondent Ayurved University and the circumstances which delayed the dispensation of justice simply for no fault of the

petitioner.

10. It is beyond the comprehension and understanding of the Court as to what good reason prevailed with the respondent University to reject the admission of the petitioner and not to regularise her admission, which was granted by the respondent No. 3 College in view of her high merit in special quota with special fees on 29/10/2011 against a vacant seat and she has also been undergoing the course until the point of time when for the first time she was informed vide Annex. 10 dated 29/2/2012 of the respondent College that vide communication dated 31/1/2012 and 28/2/2012 of the respondent University, her admission to the said course is cancelled, even though, in the previous writ petition filed by the petitioner, interim order was passed after hearing the learned counsel for the respondent University, Mr. Sandeep Bhandawat, who entered appearance on a caveat on behalf of respondent University, that the petitioner shall not be disturbed to pursue her studies, though the said interim relief will not create any right in her favour, if ultimately the writ petition is dismissed by this Court. But, when on 13/4/2012, the aforequoted order was passed by the coordinate bench of this Court leaving it to the discretion and wisdom of the University to redetermine the case of the petitioner and the respondent No. 3 College fully supported the case of the petitioner and admitted that it had all happened due to the clerical mistake and admittedly the petitioner stood higher in merit & had applied in time on 20/10/2011 itself before the meeting dated 22/10/2011 and that she had been admitted against the vacant seat available with the respondent No. 3 College and she had also paid the higher and special fees under the NRI quota, one fails to understand what prevailed with the respondent Ayurved University to reject the case of the petitioner in same stereotyped manner. Since the respondent University did not file any reply to the writ petition though it had earlier filed caveat in the previous writ petition & was opposing the case of the petitioner when the matter was taken up today, learned counsel for the respondent Ayurved University was directed to summon the Registrar of the University along with relevant record and the Registrar is accordingly present in the Court.

11. The explanation given by the learned counsel for the respondent University is only one, that in the meeting of the Admission Committee held on 22/10/2011, the petitioner was not present nor her application was placed before the said Committee and, therefore, her case could not be considered and 8 students, namely; Mehak Mehta, Vivek Dhankad, Suman, Ambika Sharma, Ashok Kumar, Poonam Choudhary, Pankaj Joshi and Amrita Kumari were given admission on 22/10/2011 and four persons, namely; Savita Saini, Yukti Choudhary, Asif Khan and Sangh Priya were kept in the waiting list and it was also stated that in case any one out of the 8 candidates does not take admission upto 25/10/2012, the person from the waiting list of four persons will be given admission on the basis of merit. The said minutes of the meeting of Admission Committee were taken on record of the case and obviously, the petitioner, as per her percentage of marks in 10th and 12th standard, would have stood at serial No. 2 in the said list, if her

application was placed before the said Admission Committee. On Court question, learned counsel for the respondent Ayurved University also informed that the said Committee only compiled the marks of 10th and 12th standard of the applicants placed before it and according to the percentage of marks obtained by such candidates, they were arranged in a particular order. Neither the candidates were called for any personal interview nor they were present. Thus, the only reason given for not regularising the admission of the petitioner is that her application was not before the said Committee on 22/10/2011. The said minutes dated 22/10/2011 also do not show that all the 8 persons admitted on 22/10/2011 and 4 persons named in the waiting list were present on that date. As aforesaid, the petitioner had no notice of the said meeting dated 22/10/2011 nor there was any requirement for her to appear and it is also not in dispute that her application was even though available with the respondent No. 3 College on 20/10/2011 i.e. two days prior to the meeting of the Admission Committee and obviously the petitioner was not at all at any fault if her application received by the respondent No. 3 College well in time was not placed before the Admission Committee, which comprised of four members out of which only one member Dr. Om Prakash Dadhich, Associate Professor, N.I.A. Jaipur was nominated by the respondent Ayurved University and other three members were of the same respondent No. 3 College, who, as aforesaid, had admitted that because of the clerical mistake on the part of the College concerned only, the application of the petitioner could not be placed before the Committee on 22/10/2011. It has also come on record that the Director of the respondent No. 3 College even had a telephonic conversation with the nominated member of the respondent University on 29/10/2011 itself when the petitioner approached the respondent No. 3 College with her parents and had taken his verbal consent for the admission of the petitioner in NRI quota and, therefore, the fact remains that the admission of the petitioner was fully in order and with the consent of the four persons, who constituted the said committee on 22/10/2011. No affidavit to the contrary has been filed by the respondent Ayurved University or Mr. Om Prakash Dadhich, either in the earlier writ petition or in the present writ petition.

12. In the light of these circumstances, the stand taken by the respondent Ayurved University is simply not palatable, much less acceptable to this Court. On the contrary, the last communication Annex. 13 dated 13/5/2012 is rather strange that since this Court in the earlier writ petition filed by the petitioner before this Court, while disposing of the said writ petition on 13/4/2012 did not grant any relief to the petitioner, therefore, it was not possible to regularize her admission. As already stated above, the learned Single Judge of this Court considered it appropriate that the respondent Ayurved University may reconsider the case of petitioner at its own end and possibly hoping that good sense would prevail with the respondent University, it may be given a second chance to regularize the admission of the petitioner. On the contrary, the respondent University felt that since the High Court has not given any relief to the petitioner, why the respondent University should give any such relief.

13. Surprisingly, before passing the orders for cancellation of her admission, the petitioner was never given any notice or opportunity of hearing or to show cause against such cancellation of her admission and thus there was a gross violation of principles of natural justice. Or this ground alone, the impugned orders or communications of the respondent Ayurved University deserve to be quashed by this Court.

14. The respondent Ayurved University was established and constituted in the recent past in the State of Rajasthan and was opened at Jodhpur with huge investment of crores of rupees of public money to cater the need of students, who want to pursue their course in Ayurvedic Medical Sciences. In fact all educational institutions exist for the benefit of students and without the students they would be mere skeletons. The Father of the Nation Mahatma Gandhi had once said, "Customer in your shop is your master, you are not his master". In a democratic country governed by the rule of law, where the Universities are created to cater the need of students and whose existence depend upon the existence of the students, the killing of a career of meritorious student like the petitioner by the University by a stroke of pen is not sensible at all and cannot be tolerated by the Courts of law. The endeavour of the State to provide even free education to the females of the State to correct the imbalance in the society and the theme of women empowerment seems to have been totally annihilated in the present case by sheer non application of the mind & apathy by the authorities of the respondent Ayurved University. Not even a semblance of reason, what to talk of cogent reason, has been placed before this Court to justify the rejection of the case of the petitioner and putting an end to her budding career in the midst. Loss of studies after 9/5/2012 for almost nine months, when the examinations of first year are ahead, obviously, cannot be compensated adequately. However, while quashing the impugned orders of the respondent University, this Court is of the considered opinion that scales of justice would not be set right & balanced, unless the respondent University is made to adequately compensate the petitioner for the said loss caused to her by the aforesaid typically bureaucratic approach. One course open was to grant monetary compensation against the respondents to be paid to the petitioner. Instead of doing this, this Court feels that it would be more appropriate if the respondent No. 1--Ayurved University and respondent No. 3 College are directed now to provide free education to the petitioner at least in the First Year of said B.A.M.S Course. The fees for the First Year i.e. Rs. 1,80,000/- which has been already paid by the petitioner would be adjusted against the remaining fees, which the petitioner would be required to pay for rest of her course & the affiliation fees payable to the respondent Ayurved University, if it is payable on the basis of per capita or per student basis, the same will not be required to be paid by the respondent No. 3 College to the respondent No. 1 University. With the aforesaid directions, the present writ petition is accordingly allowed and the impugned orders of the respondent University Annex.7 dated 31/1/2012, Annex.9 dated 28/2/2012, Annex.10 dated 29/2/2012 and Annex.13 dated 9/5/5012 are hereby quashed. The petitioner's

admission in the course of BAMS shall be treated as regular and she will be allowed to immediately undertake the remaining classes of the said course and will further be permitted to fill up the examination form so as to entitle her to appear in the examinations to be conducted by the respondent Ayurved University. No costs. Copy of this order be sent to the Vice Chancellor & the Chancellor of respondent Ayurved University as well for information.