
(1980) 11 AP CK 0001
In the Andhra Pradesh High Court
Case No : Writ Petition No. 4059 of 1980

M. Ramana

APPELLANT

Vs

Government of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 22-11-1980

Acts Referred:

Andhra Pradesh University Rules — Rule 4, 5
Constitution of India, 1950 — Article 14, 226

Citation : AIR 1981 AP 307

Hon'ble Judges : A. Kuppuswamy, Acting C.J.; Ramanujulu Naidu, J

Bench : Division Bench

Advocate : P. Veerabhadra Rao, for the Appellant; Govt. Pleader E and H and K. Pratap Reddy, for the Respondent

Final Decision : Dismissed

Judgement

A. Kuppuswami, Ag. C.J.

1. The petitioner, whose application for the entrance test for admission to the M.B.B. S. course was rejected, filed this writ petition praying for the issue of a writ of mandamus or any other appropriate writ or order or direction directing the respondents viz., the State of Andhra Pradesh, the Principal, Gandhi Medical College and the Lay Secretary & Treasurer, Gandhi Medical College, Hyderabad to admit him to the M. B. B. S. entrance examination to be held on 24-8-1980. In W. P. M. P. No 6089/1980, he prayed for an interim direction to permit him to write the entrance test pending disposal of the writ petition. This Court directed that the petitioner should be permitted to sit for the entrance examination observing that the result would be subject to the result of the writ petition. Accordingly he sat for the examination and it is now represented that he obtained 124 marks out of 150 in the test, whereas the last person who was selected, got 113 marks.

2. The petitioner was born on 21-16-1958. According to the rules for admission to the first year M.B. B. S. Course in the Medical Colleges in the Andhra Pradesh

State contained in G. O. Ms. No. 447 dated 10-7-1979 as amended in G. O. Ms. No. 793, M. & H., D/- 18-7-1980, the candidates must have completed the age of 17 years and must not have completed 22 years of age as on 31st December of the year of admission. Under R. 4(b) of the rules for admission to the 1st year M. B. B. S. Course in the Medical Colleges in Andhra Pradesh State (hereinafter called the rules) however, it is stated that B. Sc., and M. Sc., candidates can be admitted up to the age of 25 years as on 31st December of the year of admission. Rule 5 deals with the educational qualifications. Subject to certain restrictions contained in Rule 5 (i) of the rules, candidates who passed intermediate examination, are eligible to appear for the entrance test. Under Rule 5 (iii), B. Sc., and M. Sc., candidates also are eligible to appear for entrance test subject to certain restrictions mentioned in that sub-rule. Note (a) to that sub-rule is as follows:-- "Candidates possessing B. Sc./M. Sc.. qualification should pass B. Sc./M. Sc., within a period of three years/two years respectively as prescribed by the respective Universities.

3. The petitioner herein joined B. Sc., course in Sardar Patel College, in the year 1975. He ought to have appeared for the first year examination in April, 1976 but due to ill-health he could not take the examination in April and appeared for the examination in Nov., 1976. Under the Osmania University Rules, he could not be permitted to study in the year 1975-76. So he studied the second year of B. Sc., during 1977-78 and appeared for the examination in June 1978. He studied the third year course in 1978-79 and appeared for the examination in July, 1979. He completed all his examinations in one attempt and ultimately passed B. Sc., securing first class. However in view of the fact that he could not appear for the first year examination in April, 1976 due to ill-health and had to discontinue his studies during 1975-76, it took him four years to complete his B. Sc., course.

4. It is seen from the above facts that he would have completed 22 years of age by 31-12-1980. Hence it is submitted that if the petitioner is treated as an Intermediate candidate, he is not eligible for admission under Rule 4 (a) of the rules. No doubt, a B. Sc., candidate can be admitted up to the age of 25 years as on 31-12-1980 and the petitioner satisfies this test. But it is pointed out by the respondents that under Note (a) to Rule 5, candidates possessing B. Sc., qualification should pass B. Sc., within a period of three years. As the petitioner did not pass his B. Sc., within the period of three years but took four years, it is argued by the respondents that he is not eligible for admission as a B. Sc., candidate even though he satisfies the age test. In the circumstances it is submitted that the petitioner's application was rightly rejected.

5. Sri B. Veerabhadra Rao, learned counsel for the petitioner rightly concedes that as the petitioner would be more than 22 years as on 31-12-1980, he is not eligible for admission as an Intermediate student. But he submits that as a B. Sc., candidate, he is eligible for admission whereas he is less than 25 years as on 31-12-1980. Regarding Note (a) to Rule 5, he submits that the construction put upon the Note by the respondents is not correct. He submits that the true

interpretation of the Note is that the candidates possessing the B. Sc., Degree, should pass B. Sc., after studying three academic years. It is not necessary that the candidate should have completed his B. Sc., within three consecutive years. He submitted that the main object of the rules was to get the best talent for the M.B.B.S. Course. It was therefore intended that only B. Sc. candidates who completed their course after studying only three academic years should be eligible. The object was to prevent the B. Sc., candidates who failed in any of the years and took more time than three academic years to complete the course. It could not have been the intention that talented students who did not fail in any of the years and passed the examination after studying three academic years and particularly those like the petitioner who secured first class, should be denied admission. In this connection, he drew our attention to the Osmania University Rules in which it is stated that if a B. Sc., first year student fails in two subjects , he would be permitted to study the second year B. Sc., course in the academic year 1976-77 and the candidate is permitted to complete those subjects subsequently. He submitted that such a candidate who had failed in two subjects would be completing the B. Sc., course in three years and would be eligible for admission; whereas persons like the petitioner, who, due to ill-health or other substantial revsion, could not sit for the examination in the year 1976 and who could not therefore continue studies in the academic year 1976-77 but were compelled to complete their course only in four years, would be prevented from being admitted into the Medical College and that would defeat the very object of having the best talent for admission into the medical course. He therefore submitted that the Note (a) should be so read as giving effect to the above object of getting best talent and should be construed as meaning that candidates possessing the B. Sc., course should pass the course after studying only three academic years and that if the note is so interpreted as requiring that B. Sc., candidates should pass within a period of three consecutive years, the Note would be discriminatory and violative of Art. 14 of the Constitution.

6. As has been staled earlier, pending the writ petition, the examinations were held and selections have been made. By an order of this Court, one seat has been reserved in case the petitioner is successful in this writ petition. The last candidate who has been admitted has obtained 113 marks and 55% in English. One Rajendra Kumar, alleging that he has also obtained 113 marks in the aggregate and 49 marks in English, has applied in W. P. M. P. No. 8213/1980 to implead him as the 4th respondent. In the affidavit filed in support of the petition, he states that if the petitioner is held ineligible to apply for the entrance test and the writ petition is dismissed, he will be entitled to admission as he is the one immediately below the last candidate who has been admitted. This application was opposed by the petitioner; but we are of the view that the petitioner in W. P. M. P. 8213/1980 should be impleaded as the 4th respondent in view of what he has stated, if the petitioner in the main writ petition is held ineligible for admission, he would be entitled to be admitted to the M.B.B.S. Course. Hence the petitioner in W. P. M. P. 8213/ 1980 has sufficient interest to

oppose the writ petition and to advance arguments in support of the contention that the petitioner is ineligible for admission. We accordingly order W. P. M. P. 8213/1980.

7. The learned Government Pleader who appeared for the State and the Medical College and Sri Pratap Reddy, learned counsel for the 4th respondent who has been impleaded, contended that the petitioner's application has been rightly rejected. They submitted that the language of Note (a) is quite clear viz., candidates possessing B. Sc., should pass B. Sc., within a period of three years as prescribed by the respective Universities, and that, as admittedly the petitioner took four years to pass his B. Sc., whatever might have been the reason, he is precluded from being admitted by reason of fee clear language contained in Note (a).

8.. It appears to us that the contention of the respondents is well-founded. The language of Note (a) to Rule 5 (iii) admits of no doubt. It clearly states that candidates possessing B. Sc.. should pass B Sc.. within a period of three years, If the intention was that the B. Sc.. candidate should have passed after a study of three academic years, there was no difficulty in using language to express that intention. By using the expression, "within a period of three years", it is clear that the intention was that the B. Sc., candidate should have completed his B. Sc.. course within a continuous period of three years.

9. In *re Marryat Westminster Bank v. Hobcroft* (1948) 1 Ch 298. a person bequeathed to an employee who had been in the service of a company at his death for a period of five years and upwards : it was held that in order to obtain the legacy, the employee must have been employed for a continuous period of five years or upwards and that two periods aggregating to live years or upwards but which had been interrupted did not satisfy the condition, as to service, prescribed by the testator.

10. We are therefore constrained to hold that the application of the petitioner was rightly rejected. We must confess that we are not at all happy in arriving at this conclusion as we find that the petitioner secured first class in B. Sc.. and in the entrance test he scored 124 marks which is much higher than the marks obtained by the last candidate who has been admitted. It was not due to any fault on his part that it took four years for him to complete his B. Sc.. It was on account of his illness that he could not appear for the examination at the end of the first year and had to appear in November and therefore had to discontinue his studies for one year. He could not qualify for admission as an Intermediate candidate as he was overage by a small margin of 2 months. But we should also remember that it is our duty to see that hard cases do not make bad law. Apart from that, if we construe the Note in the manner in which the petitioner desires us to do, it may cover cases even where the candidate fails to take his examination in April without any justifiable cause and takes his examination in November. Even in such a case, he would be entitled to submit that he had completed his B. Sc., course after studying only three academic years and

therefore he would be eligible to apply for the entrance test.

11. We do not see any substance in the argument based on Article 14 of the Constitution. It is open to the University to prescribe conditions for admission to the entrance test. It cannot be said that a condition to the effect that a candidate should have passed his B. Sc. course within a period of three years is arbitrary or that it has no nexus to the object of the rule viz. to prescribe conditions for admission to the M.B.B.S. Course. In this connection, it has to be noticed that the normal duration of a B. Sc. course is three years and apparently it was felt not desirable to have B. Sc. candidates who took more than three years to complete their course admitted into the M.B.B.S. Course. The fact that such a rule may cause hardship in some cases will not affect the validity of the rule.

12. In these circumstances the writ petition is dismissed. No costs. Advocate's fee Rs. 150/-.