
(1998) 09 RAJ CK 0002

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3042 of 1993

Maresh Chandra Sharma

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 17-09-1998

Acts Referred:

Rajasthan University Act, 1946 — Section 29

Rajasthan University Ordinances, 2009 — Ordinance 253, Ordinance 253A, Ordinance 253B

Citation : AIR 1999 Raj 146 : (1999) 2 WLC 565

Hon'ble Judges : J.C. Verma, J

Bench : Single Bench

Advocate : Suresh Pareek, for the Appellant; Ajeet Kumar Sharma, for the Respondent

Final Decision : Dismissed

Judgement

J.C. Verma, J.—The petitioner after doing his Master of Arts degree from the University of Rajasthan in the year 1982, had passed first year of LL.B. from Sukhadia University, Udaipur of Academic Course (hereinafter to be referred to as "A" Course) of LL.B. Examination by correspondence and was later on transferred to Kota Open University, Kota. He passed two years "A" course from Kota Open University by correspondence in the year 1991 as per marksheets attached as Annexures 1 and 1-A. The petitioner desired to take admission in third year course of LL.B. (Professional) (hereinafter to be referred to as the "P" course) in the University Law College, Jaipur. In the teaching wing of law, his application was not entertained for third year LL.B. (P) course for the academic session 1992-93. Being aggrieved, he has filed the present writ petition.

2. The University has filed written statement and relies on the Ordinances 253, 253-A and 253-B of the University Ordinances to the effect that a candidate is admitted to third year LL.B. (P) course examination only if he has passed and attended second year LL.B. "P" Course Examination. The relevant Ordinances are

reproduced hereunder:

Order 253. A candidate who has completed a regular course of study in the University Teaching Department of Law or in an affiliated college for First Year will, subject to the other provisions of the Act, Statutes, Ordinances, Rules and Regulations be admitted to the First Year Examination of the LL.B. (P) or LL.B. (A) Course depending on the course he has taken.

Order 253-A. A candidate, who after passing the examination of the First Year, has completed a regular course of study in the University Teaching Department of Law or in an affiliated college for the Second Year of LL.B. (P) or LL.B. (A) course will, subject to the other provisions of the Act, Statutes, Ordinances, Rules and Regulations be admitted to the Second Year Examination of the LL.B. (A) course, as the case may be.

Order 253-B. A candidate who after passing the examination of the Second Year has completed a regular course of study of the University Teaching Deptt. of Law or in an affiliated college for the third year of the LL.B. (P) Course will, subject to the other provisions of the Act, Ordinances, Statutes, Rules and Regulations be admitted to the Third Year Examination of the LL.B. (P)."

3. Even though, it is also the defence of the University-respondent that LL.B. Second Year "A" course completed by way of correspondence from Kota Open University cannot be considered to be equivalent to "A" course of LL.B. passed by a student by way of attending the regular classes, therefore, the petitioner may not be entitled to the admission in LL.B. "P" course of third year for the reason that he has completed second year LL.B. "A" course from Kota Open University by way of correspondence which is not recognised as equivalent by the University of Rajasthan. So far the equivalence of degree of LL.B. "A" Course First Year or "A" Course Second Year of any University recognised by the U.G.C. is concerned, degrees offered by such Universities in such courses and subjects which stand recognised by the U.G.C. and the Central Government are by law, recognised or are deemed to be recognised. It goes without saying that if any candidate has obtained degree of two years' degree by correspondence course from Kota Open University and if Kota Open University is a recognised University by the Government and the U.G.C., it shall be a degree equivalent to the degree issued by any other University under the Notification for the said LL.B. "A" course.

4. However, the point involved in the present case is, whether as per the Ordinances 253, 253-A and 253-B, the petitioner who had passed Second Year examination of "A" course, shall be entitled to seek admission in Third Year Examination of LL.B. "P" Course?

5. By bare reading of the aforesaid Ordinances, the answer is that the petitioner cannot seek admission for "P" course in third year LL.B. if he is not qualified in "P" course of second year of LL.B. Ordinance 253-B very clearly states that the professional course of LL.B. third year is open to those students who have passed

the professional course of Second Year LL.B. Admittedly, the petitioner has not passed the Second Year LL.B. in "P" Course but has passed in "A" course only. The contention of the learned Counsel for the petitioner that action of the respondent is arbitrary and discriminatory as to differentiate between the LL.B. "A" course of Rajasthan University and Kota Open University who had passed such examination as a regular student or as a correspondence student is not just and legal, does not arise in the present case for the reason that Ordinance 253-B does only allow those candidates who have passed LL.B. "P" course for admission in III Year LL.B. "P" course. This itrgumcnt of the learned counsel for the petitioner does not arise in the present case.

6. The next argument raised by the learned counsel for the petitioner is that Ordinances aforesaid are unconstitutional and be struck down. Even though, an argument has been raised, but it has not been pleaded in the petition as to how the LL.B. Second Year "P" Course and LL.B. Second Year "A" Course are equivalent in the studies or syllabus or other courses. Rather, a reading of Ordinances 253 and 253-A makes it clear that the candidates shall be admitted to the concerned examinations of the LL.B. "P" or LL.B. "A" Course depending on the course he has taken, which itself implies that the course of studies of LL.B. "P" or LL.B. "A" must be different and not the same. However, about the equivalence of LL.B. "A" and LL.B. "P" so far its studies and attending of classes are concerned, there are no pleadings in the writ petition and, therefore, this aspect of the matter need not be commented upon any further.

7. Counsel for the respondent also pleads that as per the rules framed by the Bar Council of India in Part IV relating to Standards of Legal Education and Recognition of the degree in law under the Act, the student is required to put a minimum attendance of 66% of the lectures of each of the subjects as also at the moot Courts and practical training course. It is stated that the Bar Council of Rajasthan has also issued instructions in view of the important conditions as laid down by the Bar Council of India in Part IV of Section A regarding Standards of Legal Education and Recognition of the degree in law including the condition regarding minimum attendance of 66%. Copy of the letter dated 29th April, 1991 in this regard has been attached as Annexure- R/l. As per the provisions of Sections 7(h) and (i), 24(1)(c)(iii), (iiia) and 49 (1) (af), (ag) and (d) of the Advocates Act, 1961, the students are required to complete following conditions which are obligatory not only for the students but also for the institutions imparting law degrees.

4. The students shall be required to put in a minimum attendance of 66% of the lectures on each of the subjects as also at the moot Courts and practical training course.

8(1). A law college shall be located at a place where mere is a District Court or a circuit district Court or within such distance thereof as the Bar Council of India permits.

8(2). The Principal of the College shall ordinarily be a full time teacher in the College.

8(3). The library of the College or University Department shall remain open for at least 8 hours on every working day.

11. The examination shall ordinarily be held at the end of every year.

12. Full time teachers of law including the Principal of the College shall ordinarily be holders of Master's degree in law and where the holders of Master's degree in law are not available, persons with teaching experience for a minimum period of 5 years in law may be considered. Part time teachers other than one with LL.M. Degree shall have a minimum practice of 5 years at the Bar.

13. The teaching load of full time and part time teachers shall be according to the norms prescribed by the U.G.C. from time to time.

14. The salaries paid to the Principal, full time and part time teachers shall be according to the scales recommended by the U.G.C. from time to time.

15. A law college affiliated to a University shall by June 1, 1987 be an independent law college and shall cease to be a department attached to a college."

8. One of the conditions mentioned therein is, the students shall be required to put in a minimum attendance of 66% of the lectures on each of the subjects as also at the moot Courts and practical training course. It is not stated in the petition that the petitioner completes the condition, though he passed correspondence course of Second Year LL.B, "A", that he has attended in moot Courts or practical training or not.

9. In my opinion, there is no merit in the writ petition for the reasons discussed above and it cannot be held that any of the Ordinances as mentioned above and challenged are arbitrary or unconstitutional.

10. The writ petition is dismissed. No order as to costs.