
(2011) 01 AHC CK 0302

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 69249 of 2010

Manoj Kumar Pandey

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-01-2011

Acts Referred:

Citation : (2011) 3 ADJ 195 : (2012) 3 AWC 3081 : (2011) 3 UPLBEC 2062

Hon'ble Judges : A.P. Sahi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

A.P. Sahi, J.—The Petitioner has prayed for a direction to the Respondent-University to declare the results of the B. Ed. Examinations (Degree Course) of the Petitioner by way of an amendment. The Petitioner has also prayed for quashing of the order dated 19th/30th November, 2010 which is in shape of a communication by the Registrar informing the Petitioner that his results for the B. Ed. Examinations, Session 2007-08 (3rd phase) cannot be declared as the Petitioner has completed two degree courses simultaneously in the same academic session. It has been indicated that according to rules the Petitioner will be entitled for a B. Ed. Degree Course provided his results of Post Graduation which he had completed in the year 2008 are cancelled. The amendment application has been allowed by a separate order and the learned Counsel for the University had been called to obtain instructions and assist the Court in the matter.

2. Learned Counsel for the University has placed before the Court a copy of the order which is impugned through the amendment application and also the extract of Chapter IV of the Ordinances relating to examinations in general. Relying upon Ordinance No. 4, learned Counsel for the University submits that the impugned order does not call for any interference nor can a mandamus as prayed for by the Petitioner be granted.

3. The Petitioner was a student of M. Sc. Course in Murli ManoharTown. Post Graduate College, Ballia affiliated to the Veer Bahadur Singh Purvanchal University, Jaunpur. While he was a student as above, applications were invited for entrance examinations from qualified candidates for the B. Ed. Degree Course to be held by the Chhatrapati Shahu Ji Maharaj University, Kanpur. The Petitioner appeared in the entrance examination while he was a student of M. Sc. The Petitioner passed his M. Sc. Examination in the year 2008 and he was issued a mark-sheet on 25.9.2008.

4. The results of the Entrance Examination were declared in the year 2009 and the Petitioner was called for counselling on 27th February, 2009. He was granted admission in the B. Ed. degree course in the College of Professional Education Sisauli Garh Raod, Meerut on 20th March, 2009, whereafter he started pursuing his course. The examinations were held in March, 2010 and the practicals were held in September, 2010. The results were declared but the Petitioner's result was withheld for the reasons as now indicated in the order impugned. Hence, this petition.

5. I have heard learned Counsel for the Petitioner and the learned Counsel for the University and in view of these undisputed facts, this Court does not find it necessary to further adjourn the matter in order to grant any further time for filing counter-affidavit as no disputed facts are involved. The Respondent No. 3 has not contested this petition.

6. Learned Counsel for the University submits that the Petitioner appeared in the Entrance Examination of B. Ed, while he was pursuing his M. Sc. Course and, therefore, in view of the Ordinance No. 4 of Chapter IV, he is not entitled to the declaration of his results unless his results of the Post Graduation are cancelled. Reliance is placed on the said ordinance which is quoted below:

Ordinance No. 4 of Chapter IV.--No candidate shall be allowed to work for two degrees of the University simultaneously unless specifically provided in the statutes and ordinances.

7. It is contended that the academic session being one and the same, namely, 2007-08, the Petitioner cannot be extended the aforesaid benefit.

8. In reply Sri. S.P. Pandey submits that it is true that the academic session for which the B. Ed. Entrance Examination was held by the Kanpur University was 2007-08. The Petitioner has however been admitted in a College affiliated to the Meerut University through an Entrance Examination conducted by the Kanpur University. He therefore submits that the ordinances of the Meerut University would not be applicable.

9. He further contends that the calendar year in which the Petitioner had completed his M. Sc. Examination was entirely different and the Petitioner has been granted admission in B. Ed. Course long after the declaration of his M. Sc. results. Thus, it cannot be said that the Petitioner was pursuing two courses

simultaneously as referred to in Ordinance No. 4.

10. He additionally contends that there was no such prohibition for appearing in the Entrance Examination and even if the Petitioner had appeared in the Entrance Examination while pursuing his M. Sc. Course, there was no impediment in doing so. His contention is that even logically no such requirement can be introduced so as to prohibit a person from appearing in an entrance examination.

11. Having heard learned Counsel for the parties, the contention raised on behalf of the Petitioner deserves to be accepted for the simple reason that on admitted facts the Petitioner had already passed his M. Sc. Examinations in September, 2008. It was long thereafter that the results of the entrance examination was declared and the Petitioner was called for counselling on 27.2.2009. He actually started pursuing his B. Ed, course after admission on 20th March, 2009. Thus, on facts, the Petitioner did not simultaneously pursue two courses at the same time even if the academic session was the same. The academic session of B. Ed, was delayed on account of the late procedure of admissions. A delayed session, therefore, cannot be treated technically to be the same session for the purpose of attracting the provisions of Ordinance No. 4 of the ordinances under Chapter IV of the Meerut University.

12. The said ordinance categorically uses the word "simultaneous" which means together. The said ordinance does not use the words "academic session". The emphasis is on the simultaneous pursuing of two courses together. As noted above, the Petitioner did not pursue as a matter of fact two courses in the same calendar year and he has completed them separately as established on record. Consequently, the ordinance No. 4 does not debar the declaration of results of the Petitioner of his B. Ed, examination.

13. The contention of Sri Pandey that even logically, any student is entitled to appear in the entrance examination is correct inasmuch as there is no such bar that he will have to give up his course that he was pursuing at the time of the entrance examination before he actually appears in the same. The Petitioner could have opted not to get admission in B. Ed, course even after succeeding in the entrance examinations and it is for this simple reason that such a condition does not exist as a prohibition for appearing in the entrance examinations.

14. Thus, on all scores, the Petitioner is entitled for the reliefs claimed. The writ petition is allowed. The order dated 19th/30th November, 2010 as communicated to the Petitioner and appended alongwith the amendment application is hereby quashed. The Respondent-Meerut University shall proceed to declare the results of the Petitioner and extend him all consequential benefits to which he is entitled after such declaration.