

(2010) 06 BOM CK 0182
In the Bombay High Court
Case No : Writ Petition No. 431 of 2010

Master V.P. Vipesh Rep. By father Shri K. Viswambhram	APPELLANT
Vs	
The Director of Technical Education and Anr	RESPONDENT

Date of Decision : 10-06-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 06 BOM CK 0182

Hon'ble Judges : F.M. Reis, J;A.S. Oka, J

Bench : Division Bench

Advocate : D. Pangam, for the Appellant; S.S. Kantak, Advocate General and Mr. A. Kamat, AGA, for the Respondent

Judgement

1. The Petitioner is a student, who has passed Secondary School Certificate Examination. The challenge in this Writ Petition under Article 226 of the Constitution of India is to clause (i) of Rule 4.3.1 incorporated in the Common Prospectus for admission to Diploma Courses in Polytechnics in Goa. With a view to appreciate the submissions made by the learned Counsel for the Petitioner, a reference will have to be made to Rule 4.3.1, which reads thus :

4.3.1 FOR SSC+/HSSC+SEATA (See Note below) An applicant must have passed the Secondary School Certificate Examination of the Goa Board or an examination conducted by the Central Board of Secondary Education, New Delhi, or any other examination, which in scope and standard, is deemed to be equivalent to the SSC/HSSC examination of Goa Board, and must have obtained, in one and the same sitting, the minimum percentage of marks in the specific subjects as prescribed for the admission to respective Professional Courses, as under :

i) Engineering Courses : Candidate must have secured a minimum of 50% marks in aggregate in the SSC (Std. Xth) or equivalent examination (40% marks for SC/ST/OBC) in one and the same sitting with Science, Mathematics and English as compulsory subjects.

ii) Hotel Management & Catering Technology/MOP : Candidate must have secured a minimum of 35% marks in aggregate in the HSSC (Science/Commerce/Arts/Vocational) or equivalent examination in one and the same sitting.

iii) Garment Technology: Candidate must have secured a minimum of 40% marks in aggregate in the SSC examination (35% for SC/ST/OBC) in one and the same sitting with Science, Mathematics and English as compulsory subjects.

iv) Pharmacy : Candidate must have secured a minimum of 35% marks in aggregate in the HSSC (Science) or equivalent examination (35% for SC/ST/OBC) with Physics, Chemistry and Biology/Mathematics as compulsory subjects. As per Pharmacy Council of India Regulations, candidates passing Senior Secondary School examination conducted by National Open School, New Delhi are not approved/eligible for admissions to D. Pharma.Sc.

2. The submission of the learned Counsel appearing for the Petitioner is that Rule 4.3.1 requires that minimum percentage of marks in specific subjects should be prescribed for Engineering Courses. Inviting our attention to clause (i), he submitted that minimum percentage of marks for specific subjects is not at all prescribed and the qualification laid down is that candidate must have secured a minimum of 50% marks in aggregate in the SSC or equivalent examination which would be 40% in case of reserving categories. His submission is that as the requirement of the rule is not complied with, a student like Petitioner will suffer. He stated that the Petitioner has secured substantial marks in important subject like Mathematics. He pointed out that as marks of all the subjects in SSC examination will be considered for Engineering Courses, the candidate who has secured lesser marks in Mathematics may secure admission. He, therefore, submitted that a writ be issued to the concerned authorities enjoining them to specify the specific subjects and the minimum percentage required in the specific subjects as the qualification for Engineering Courses. In the alternative, he submitted that as clause (i) requires that candidate should opt for Science, Mathematics and English as compulsory subjects, a direction be issued that minimum percentage of marks in the said three subjects should be considered as a qualification.

3. We have given anxious consideration to the submissions. Clause lays down different qualifications for securing admission to Engineering, Hotel Management & Catering Technology, Garment Technology and Pharmacy courses. The Petitioner is relying upon first part of Rule 4.3.1. He states that the minimum percentage of marks in specific subjects will have to be prescribed for respective Professional Courses. The Rule prescribes different minimum percentage for different courses. Certain subjects are compulsory for certain courses.

4. We cannot see any obligation on the part of the rule making authority of prescribing minimum percentage of marks only in specific subjects such as Science, Mathematics and English. The rule making authority has laid down the qualifications. The qualifications are different for four different diploma courses.

We cannot interfere with the wisdom of the Rule makers who are experts in the field. There is no illegality or arbitrariness in Rule 4.3.1. No interference is called for in the writ jurisdiction. Writ Petition is rejected.