
(2005) 01 OHC CK 0066

In the Orissa High Court

Case No : Original Jurisdiction Case No. 15791 of 1997

Mayadhar Dash

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 05-01-2005

Acts Referred:

Citation : (2005) 99 CLT 812

Hon'ble Judges : P.K. Mohanty, J; J.P. Mishra, J

Bench : Division Bench

Advocate : Biswanath Rath, B. Senapati, J. Rath, S.K. Jethi, S.K. Patjosi, P.S. Samantaray and S.B. Mohanty, for the Appellant; G.B. Acharya, (For O.P. No. 9) and S.L. Patnaik, (For O.P. Nos. 2 to 8), for the Respondent

Final Decision : Dismissed

Judgement

P.K. Mohanty, J.—The petitioner assails the decision of Utkal University, in awarding the Gold Medal in favour of Opp. Party No. 9 for having secured the highest mark in LL.M. Examination, 1996.

2. The main thrust of argument of Sri B. Rath, Learned Counsel for the petitioner is that under the Rules for award of Gold Medals formulated by the University, the Gold Medal is to be awarded to the First Position holder in a subject like LL.M., who is a regular student of the University, has completed the course and appeared and the examination within the normal period as stipulated in the Regulation without any repeat or back paper. The petitioner has cleared Part-I and Part-II of LL.M. Examination at the end of each part of the course and secured 652 marks in aggregate out of the total of 1000 marks and that being the highest mark secured in the examination, without missing any chance he ought to have been awarded the Gold Medal. But the University illegally and contrary to the Rules and Regulations has awarded the Gold Medal in favour of Opp. Party No. 9, who has appeared at both the parts together at the end of Second Part only without clearing each part separately at the end of each academic course on the plea that the said opposite party has secured more

marks than the petitioner.

3. The Utkal University and Opposite Party No. 9 have filed their separate counter affidavit denying the claim of the petitioner inter alia on the grounds that in view of the clear provision of the Rules for award of Gold Medal read with the Regulations for LL.M. Examination that a LL.M. student can clear Part-I and Part-II of LL.M. Examination either separately or both taken together and the Opp. Party No. 9 having appeared at the LL.M. whole examination i.e., Parts-I and II together at the end of the LL.M. Course in one chance and having secured the highest mark and more mark than the petitioner, he has rightly been awarded the Gold Medal.

4. In view of the Pleadings of the parties, the question for determination is as to what are the condition or eligibility for award of Gold Medal to a student passing LL.M. Examination with highest mark and as to whether the petitioner or the Opp. Party No. 9 was eligible to be awarded the Gold Medal, 1996 in accordance with the said rules.

"Rules for Gold Medal Award" has been annexed to the counter of Opp. Party No. 2 as Annexure-A/2, which reads as under :

"(B) Rules for Gold Medal Award : (To be given effect from 1990 Examination onwards)

1. Gold Medal, will be awarded to the first position holder in a subject, who is a regular student of the University who has completed the Course and appeared the examination within the normal period as stipulated in the regulation without any repeat or back paper.

2. Notwithstanding the provisions given under (1) above, candidate will not be given a Gold Medal in case he has occupied the Rank by improvement marking through grace through hard case.

3. In case the 1st position holder is not eligible as per Rules in 1 and 2 above, it will not be awarded to 2nd candidate whatsoever."

Thus, the Gold Medal in any subject including LL.M. to the holder of First Position on the relevant subject, is to be awarded to one who is a regular student of the University and has completed the course and appeared at the examination within the normal period, stipulated in the relevant Regulation and such student must not have secured the position either by repeating a paper or with back papers.

The Regulation 6 for LL.M. Examination, in Correction Slip No. 832 reads thus :

"6(i). The examination shall be held in two parts, Part-I and Part-II. Each part will carry a maximum of 500 marks. A candidate may at his/her option appear only for Part-I of the examination or only for Part-II of the Examination if he/she has already appear (passed) Part-I, or both Part-I and II together.

(ii) Any registered student of the University on payment of the fees payable

under Regulation 5 above may be permitted to repeat any or all papers of the Part-I and Part-II examination taken separately or together (whole) examination within two years from the date of publication of respective results for one only. The higher of the marks secured by such a student between his/ her previous and repeated examinations shall be taken into account for determining the result."

In view of Regulation 6 quoted above, the LL.M. Examination conducted by Utkal University is of two parts i.e., Part-I and Part-II and it is the option to the candidate concerned either to appear at Part-I examination and having cleared the same in Part-II examination or the whole examination i.e., Part-I and II together.

5. Thus, on a reading of the LL.M. Regulations read with the Rules for award of Gold Medals, it is abundantly clear that a candidate, who secures the First Position by securing highest marks in a subject, as a regular student and completed the course and appeared at the examination within the normal period of two years stipulated in the Regulation without repeat or back paper would be entitled to award of the Gold Medal. Undisputedly the Opp. Party No. 9 had passed the LL.M. Examination as a regular student, within the stipulated period of two years without any back paper and secured the highest mark, whereas the petitioner has to the second highest marks in the said examination.

6. The contention of Sri B. Rath, Learned Counsel that the Opp. Party No. 9 having taken both the parts of examination together and not appearing at Part-II at the end of 1st year course and after passing Part-I appeared at Part-II was not entitled to the award of Gold Medal is misconceived in law and has to be rejected. The Rule clearly stipulates that a candidate has to secure the highest position, having appeared and cleared the LL.M. examination within the normal two year's time stipulated in the relevant Regulation. The normal period or the duration of the LL.M. course is two years consisting of a two years course and as to whether a candidate is to appear both the parts separately or together as a whole examination is according to the option of a student. The petitioner chose to appear at Part-I and Part-II separately whereas Opposite Party No. 9 took the whole examination, i.e., Part-I and Part-II together which was permissible under the Regulations and passed the same securing the highest marks. The Regulation of the University permits appearance at the LL.M. Examination piece meal, i.e., Part-I and Part-II separately or the whole examination, i.e., Part-I and Part-II together and, as such, a student who chooses to appear at the examination part by part cannot be construed as more meritorious than a student who appears the whole examination nor a student who takes the whole examination at the end of the course of two years duration in accordance with the Regulations can be regarded as a defaulter to forfeit his right to the Gold medal.

7. In such view of the matter and in view of the admitted position that the petitioner has secured less marks than Opposite Party No. 9 in the LL.M. Examination, 1996, he cannot lay a claim for the Gold Medal in terms of the

Rules. The action of the University in awarding the Gold Medal in favour of Opposite Party No. 9 cannot, therefore, be faulted.

The Writ Petition is therefore devoid of any merit and dismissed as such. But in the circumstances, there shall be no order as to cost.

J.P. Mishra, J.

I agree.