
(2002) 11 RAJ CK 0010
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1186 of 1992

Miss Sachi

APPELLANT

Vs

The University of Jodhpur and Another

RESPONDENT

Date of Decision : 28-11-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 2 WLC 74 : (2003) 2 WLN 455

Hon'ble Judges : Sunil Kumar Garg, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sunil Kumar Garg, J.—This writ petition under Article 226 of the Constitution of India has been filed by the petitioner against the respondents on 25.2.1992 with a prayer that by an appropriate writ, order or direction, the respondent University may be directed to confirm the provisional merit certificate issued to the petitioner on 3.10.1991 (Annex. 3) and it may further be directed to declare that the petitioner is entitled to get the merit certificate as well as the Gold Medal as a result of her first position in B.A. Examination, 1991.

2. That it may be stated here that this Court vide order dated 17.8.1992 allowed the application of Smt. Deepti Lodha for impleading her as party in this writ petition and she was impleaded as respondent No. 2 in the writ petition.

3. The facts as put forward by the petitioner are as under:

(i) That the petitioner secured 71st position in her Secondary School Examination held by the Board of Secondary Education for Rajasthan at Ajmer in the year 1987. She secured 26th rank in her higher Secondary Examination in the year 1988 and 4th rank in her Senior Higher Secondary Examination held in the year 1989. A photo-copy of mark sheet of Senior Secondary Examination is marked as Annex. 1.

(ii) That further case of the petitioner is that at the time the petitioner passed her higher secondary examination, the Board of Secondary Education for Rajasthan introduced a Scheme of 10+2 examination and an option was given to the candidates either to take admission in the Senior High Secondary Class i.e. 12th Class or to take admission in the first year of three years degree course.

(iii) That petitioner opted for 12th Class and she passed the same in the year 1989.

(iv) That after passing the Senior Higher Secondary Examination, the petitioner got admission in the Second Year of Three Years Degree Course in the University of Jodhpur (respondent No. 1).

(v) That the petitioner topped the B.A. Final Examination, 1991 as she secured 74.75% marks. A copy of mark-sheet of B.A. Examination, 1991 is marked as Annex. 2, which reveals that she secured 897 marks out of 1200 marks.

(vi) That the further case of the petitioner is that through certificate dated 31.10.1991 (Annex. 3), the petitioner was awarded merit certificate stating that she stood first in B.A. Examination, 1991 held by the respondent No. 1.

(vii) That further case of the petitioner is that she came to know that the University was going to award gold medal to the student who stood first in B.A., but name of the petitioner was going to be excluded for getting the gold medal and therefore, she submitted representation dated 7.1.1992 (Annex. 4) and representation dated 9.1.1992. (Annex. 5) and ultimately, she sent a notice for demand of justice 31.1.1992 (Annex. 6).

(viii) That she came to know that gold medal would not be awarded to the petitioner despite the fact that she secured first position in B.A. Examination 1991.

(ix) That the petitioner submits that the gold medal should have been awarded to the petitioner and for that respect, reliance has been placed on Ordinance 301 of the Jodhpur University Ordinance which reads as under:

Medals:

Ordinance 301. "The university will award Gold Medals every year to students who stand first class first in Final degree and Post-graduate Examinations of the University.

(x) It has been further submitted that because of Ordinance 301, the claim of the petitioner should have been accepted by the respondent No. 1. Hence, this writ petition with the above mentioned prayer.

4. Reply to the writ petition was filed by the respondent No. 1 and in that reply, it has been submitted by the respondent No. 1 that the Gold Medal could not be awarded to a student who had subjected herself to only 2 years of three years degree course in the University. Therefore, the petitioner was not awarded the

gold medal. It has been further submitted that decision for awarding gold medal to those students who have completed 3 years course of B.A. degree of the University, was taken by the respondent No. 1 and in this respect, the notification dated 16.12.1991 (Annex. R/1) was issued by the respondent University. It has further been submitted by the learned Counsel for the respondents that the gold medal shall be awarded to those candidates who have taken all examinations namely, 1st year, second year and final year from the University and have stood first in the order of merit having secured highest marks amongst the successful candidates and since the petitioner took admission in 2nd year of B.A. Examination and had completed only 2 years of 3 years degree course, therefore, she was not entitled to be awarded gold medal. Hence, the writ petition be dismissed.

5. I have heard the learned Counsel for the parties and perused the record.

6. There is no dispute on the point that the petitioner passed her Secondary School Examination in the year 1987. She passed her Higher Secondary Examination from the Board of Secondary Education at Ajmer in the year 1988 and thereafter she passed her Senior Higher Secondary Examination in the year 1989 as she opted for 12th class (Senior Higher Secondary). After passing her Senior Higher Secondary Examination, the petitioner was given admission in 2nd year of 3 years degree course of respondent-University. There is also no dispute on the point that she passed B.A. Examination in the year 1991 and there is also no dispute on the point that she stood first in the order of merit and this fact is very much clear from the certificate dated 3.10.1991 (Annex. 3) issued by the respondent - University.

7. Ordinance 301 of the Jodhpur University Ordinance has already been quoted above and in that Ordinance 301, no distinction has been made as to whether the person who stood first was having 2 years degree course or three years degree course. A perusal of Ordinance 301 clearly reveals that the gold medal shall be awarded to the student who stood first and since the petitioner stood first in her B.A. Examination, 1991 as is evident from the certificate dated 3.10.1991 (Annex. 3) issued by the respondent No. 1, therefore, by virtue of Ordinance, 301, the petitioner was entitled to be awarded gold medal for standing 1st in B.A. Examination, 1991.

8. Thus, the argument that the gold medal was to be awarded only to those students who have taken 3 years degree course from the respondent-University cannot be accepted because of simple reason that such type of distinction has not been made in Ordinance, 301. Therefore, issuance of notification dated 26.12.1991 (Annex. R/1) would have no effect or would not supersede Ordinance, 301. If the respondent No. 1 wanted that gold medal should only be given to those students who stood first after taking three years degree course in the Respondent-University, they should have amended the Ordinance 301 in that respect and in absence of that, the claim of the petitioner cannot be denied for gold medal as she stood first in B.A. Examination, 1991 held by the respondent-

University and this fact has been confirmed by the respondent-University by issuing certificate (Annex. 3).

9. No doubt in the certificate (Annex. 3), it has been mentioned that merit is provisional and subject to confirmation after results of revaluation are finalised, but the case as put forward by respondent No. 1 in their reply is not a case of re-evaluation and, therefore, from this point of view also the case put forward by respondent No. 1 cannot be accepted, meaning thereby from every point of view the petitioner is entitled to be awarded gold medal as she stood first in the order of merit in B.A. examination conducted by the University in the year 1991.

10. It may further be stated here that this Court through order dated 22.4.1992 directed the respondent No. 1 not to give gold medal for B.A. Examination, 1991 to any candidate, but the learned Counsel for respondent No. 2 has stated at Bar that gold medal had already been given to her.

11. So far as present writ petition is concerned, this Court is not going to pass any order on the return of gold medal if the same had already been given to respondent No. 2 by respondent No. 1 but claim of the petitioner is going to be accepted in the manner that respondent No. 1 should give gold medal to the petitioner for securing first merit in B.A. Examination, 1991. By certificate dated 3.10.1991 (Annex. 3) issued by the respondent-University, a legal right has accrued in favour of the petitioner for getting Gold Medal for securing first position in B.A. Examination, 1991 and, therefore, the petitioner is entitled to the relief sought for.

12. For the reasons mentioned above, the present writ petition deserves to be allowed.

Accordingly, the present writ petition is allowed and the respondent No. 1 University of Jodhpur (now Jai Narain Vyas University, Jodhpur) is directed to give gold medal to the petitioner for securing 1st position in the merit in B.A. Examination, 1991.

Cost made easy.