
(2004) 12 OHC CK 0001
In the Orissa High Court
Case No : Writ Petition (C) No. 4037 of 2004

Mousumi Maiti

APPELLANT

Vs

Utkal University and Others

RESPONDENT

Date of Decision : 09-12-2004

Acts Referred:

Constitution of India, 1950 — Article 19, 9

Citation : (2005) 1 OLR 19

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

Bench : Division Bench

Advocate : G. Mukherjee, for the Appellant; Akshaya Kumar Rath, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Shri G. Mukherjee learned counsel for the petitioner and Shri Rath, learned counsel for the opp. parties-University.
2. The petitioner calls in question the letter dated 23.4.2003 (Annexure-2) of the University cancelling the admission of the petitioner to P.G. (Private) Examination, 2002 in Bengali subject for the year 2002.
3. It is submitted that the petitioner having been allowed to take the examination and having appeared at the examination it was not open to the opp. parties-University to cancel the same. Otherwise also the residential certificate which is said to be required for eligibility to appear at the examination violates Article 9 of the Constitution of India. Submission is also made that the petitioner had never filed any residential certificate and as such the stand of the University that such certificate was either forged or manipulated cannot be accepted.
4. The opp. parties University has filed the counter affidavit inter-alia taking the stand that the petitioner had submitted the residential certificate issued by the Addl. Tahasildar on 10.3.1999, but on verification it was found that the certificate issued by the Additional Tahasildar did not mention the duration of the stay in

Orissa. The signature of the petitioner in the residential certificate differs from the signature in the application form. In the said certificate, it has been mentioned that the petitioner is a native of village Alua. P.O. Egra. P.S. Egra-3 in the district of Midinapur in the state of Orissa. Further in the residential certificate even though it has been mentioned that she and her family ordinarily reside in plot No. 604. village/ town/P.O./P.S. Tahasil Sahid Nagar in the district of Khurda in the application form, present address has been mentioned as Alua. P.O. Egra. district Midinapur, West Bengal.

5. A contention is raised that in terms of the instruction of the P.G. (Private) Examination, 2002 clear instruction was issued that any discrepancy like submission of forms and forged certificates if detected the admission will stand cancelled without assigning any reason thereof.

6. The question that needs determination is as to whether the University having allowed the petitioner to take the Examination can legitimately cancel admission on the ground as stated. It appears from the counter affidavit and the submission made that in terms of the admission brochure instructions to appear at the different examinations of 2002 for Non Collegiate (Private) Candidates under Utkal University and Filling of Forms" copy of which is Annexure-5 a candidate is required to file residential certificate from a Revenue Officer not below the rank of Tahasildar of the State to the effect that the candidate is a permanent resident of Orissa or has resided at least two years in the State of Orissa provided the residential certificate in case of candidate whose mother tongue is Oriya or who takes Oriya in M.A. Examination shall be waived. Special Regulation for non-collegiate candidates itself clearly provides that the Syndicate may permit a person who belongs to State of Orissa or a resident of State of Orissa for at least two years prior to the date of examination and intends to appear at the examination. Since the petitioner's certificate appended to the application form was not in accordance with the requirement and for several defects like the discrepancy in the signature itself, she was not eligible to appear at the examination. It has been explained that while verifying the application form the defect having come to the knowledge and under the Regulation the petitioner not being eligible to appear at the examination it was cancelled. It is the settled position of law that there is no estoppel against law and if a candidate legally not entitled to appear at the examination was allowed to take the examination by mistake, no estoppel shall operate to restrain the authority not to rectify the mistake.

7. The contention of the learned counsel that the requirement of residential certificate is contrary to law and against the spirit of Article 19 of the Constitution also has no force since it is the settled position of law that with regard to admission in different institutions or to different examinations the authorities are entitled to put reasonable restrictions and such reasonable restrictions should not offend Article 19 of the Constitution.

8. In our considered opinion, restrictions for admission to the P.G. (Private)

Examination, 2002 examination do not offend Article 19 of the Constitution.

9. Before parting with the case, we must record that we have perused the application form filed by the petitioner and the residential certificate submitted and we are satisfied that the petitioner's signature in the application form is totally different from the signature of the applicant in the residential certificate issued by the Additional Tahasildar. The signature in the application form as well as in the vakalatnama is similar and is different from that in the residential certificate.

10. In such view of the matter, we are not inclined to interfere with impugned order and accordingly, the writ petition is dismissed.