
(1963) 07 MAD CK 0057
In the Madras High Court
Case No : Writ Petition No. 677 of 1963

M.P. Ramanathan

APPELLANT

Vs

Director of Medical Service, Madras and Another

RESPONDENT

Date of Decision : 19-07-1963

Acts Referred:

Constitution of India, 1950 — Article 13, 14, 15, 29, 29(2)

Citation : AIR 1965 Mad 323 : (1964) ILR (Mad) 545

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Judgement

(1) The petitioner herein prays for the issue of a writ of Mandamus to direct the Secretary, Selection Committee, Madras Medical College, to consider the application of the petitioner for selection of the Integrated M. B. B. S. course.

(2) The selection of candidates for admission to the Government Medical College in the Madras State is made in pursuance of certain executive directions of the Government. In accordance with those directions, the Director of Medical Services; Madras issued that is called a prospectus for the 1963-64 session, in which were set out the minimum qualifications required of the candidates seeking admission. The petitioner submitted his application, but though his application was acknowledged, no interview card was sent to him. The selection of the candidates to be admitted in based on the result of an interview. The interview itself is preceded by weeding out applications of candidates whose qualifications do not conform to those set out in the prospectus. The petitioner states that when he mad enquiries, he was informed that the results of the Pre-University examination would govern the selection of candidates for interview. The petitioner claims that though the grades that he obtained in the Pre-University course did not come up to the standards, if that course alone was to be considered, he has taken a higher degree examination that is to say, the B. Sc. course with Botany as the main subject and Zoology as the subsidiary subject, in which he has obtained the requisite grading. His complaint is that on

a proper interpretation of the prospectus issued, he is entitled to be considered for selection and not liable to be screened on the basis of his performance in the Pre-university examination. The failure in the second respondent to select the petitioner for interview is attacked as entirely arbitrary and the classification of the candidates who have passed a higher degree on the basis of the Pre-university examination results is arbitrary and discriminatory as well in so far as eligibility for admissions concerned. It is accordingly claimed that the guarantee of the protection under Art, 14 of the Constitution to which the petitioner is entitled has been denied. It is urged that candidates who have passed a higher degree examination are entitled to be considered despite the character of their performance at the Pre-university examination and cannot be ruled out on the basis of grading they obtained in the Pre-university examination.

(3) In the counter-affidavit filed on behalf of the second respondent, the selection committee, it is stated that the rules governing the selection of candidates is specified in a Government Order which clearly states that only the performance in the Pre-university examination will be taken into account and that the marks obtained in the B.A. or B.Sc. degree examination shall be ignored. It is urged that since the petitioner has not acquired the necessary grading as the Pre-university examination, his application could not be taken up for consideration by the selection committee. The counter-affidavit also sets out the various subjects in which minimum grades should have been obtained in the Pre-university examination and purports to explain how the petitioner did not come upto the standard required. It is denied that there is any arbitrary classification. The prospectus requires that in all the specified subjects which should be offered for the pre-university examination the candidates should have obtained certain minimum grades. The fact that the petitioner has obtained the requisite grade in one of those subjects in the counter affidavit, justify his selection for an interview and enable him to be treated differently from the large mass of students who had appeared for the Pre-university examination and had obtained the requisite grading.

(4) In a reply affidavit filed by the petitioner it is pointed out that the counter affidavit proceeds on the assumption that the Government order provided for the mode of selection. It is stated that the Prospectus issued by the Director of Medical Services does not follow this Government Medical Services does not follow this Government Order and that the petitioner's contentions in the present petitions should be examined only in the light of the requirements set out in a prospectus.

(5) I may at the outset refer briefly to the minimum qualifications prescribed in the Prospectus. In this regard, I shall confine myself to only those parts of the prospectus which relate to the qualifications as seemed at the Pre-university Examination and in the higher degree Examination. Firstly, candidates who have passed the Pre-university examination of the Madras University with Physical sciences with basis mathematics and natural science as subjects of study in part

III of Group A are eligible for admission to the course. This requirement set out in paragraph, 1 (a). is further qualified by sub-paragraph (b). This paragraph requires that such candidates, as referred to above, should have obtained not less than grade B in each of the optional subjects of Physical Science with Basic Mathematics and natural science, or grade A in one and Grade C in the other, or Grade B+ in one and grade C+ in the other subjects of the optional subjects referred to in their Pre-university examination. Only those candidates who have obtained the above grading will be considered for admission.

(6) Sub-paragraph (c) is the one that has given rise to the present difficulty. Before detailing its purport, I may go back to paragraph 1 (a) which confers eligibility for admission on candidates who have passed a higher examination of this University that is, higher than the Pre-university, "provided they satisfy the rules of eligibility stated above", that is to say, they should have passed the Pre-university examination with physical science with basic mathematics and natural science as subjects of study under part III of group A. In so far as that requirement is concerned the petitioner, who has passed a higher examination of this University has certainly passed the Pre-university examination with the optional subjects referred to. Coming now to sub-paragraph (c) it read thus:

"Candidates who have passed B. A. of B. Sc. examination under the new Regulation only with Physics or Chemistry as the main subject, or Zoology or Botany as the main subject with the either as ancillary, provided they have passed the Pre-university examination referred to in paragraph I above, may also be considered for selection....." That the petitioner has passed the B. Sc. examination under the new Regulation is not denied. In his petition, he states that he took the B. Sc. Zoology as subsidiary. So far as the requirement in the first part of sub-paragraph (c) is satisfied. But this sub-paragraph further requires that the candidate should have passed the Pre-university examination referred to in paragraph 1 above. According to the petitioner, what this means is only that he should have taken the specified subjects in the Pre-university examination, whatever the nature of his performance might be and that the requirement of the grading which finds place in sub-paragraph (b) is not a relevant factor for determining the eligibility for selection of a candidate who has passed the B. Sc. examination in the subjects indicated. The learned Additional Government Pleader on the other hand, urges that he provision that he candidate should have passed the Pre-university examinations referred to in paragraph 1 takes in both the nature of the subjects taken at that examination as well as the grading prescribed in sub-paragraph (b). The learned Additional Government Pleader further refers to the Government order on the basis of which this prospectus has been issued, wherein it is specifically stated that the performance of a candidate in the higher degree examination would be ignored for the purpose of the selection. I do not think it is necessary or even proper to deal with the requirements set out in the Government order of which presumably no candidate appearing for admission had any notice. I would confine myself to an interpretation of sub-paragraph (c) and endeavour to ascertain whether that

sub-paragraph makes it compulsory that a candidate who has passed the B. Sc. examination of the type indicated should nevertheless have the requisite grading in the Pre-university examination.

(7) In so far as the wording of this sub-paragraph goes to show I am inclined to the view that even if a candidate has passed the B. Sc. degree examination he should fulfil the requirements in relation to the Pre-university examination. On a fair reading of this provision, it would be incorrect to say that the nature of the pass of the candidate in the Pre-university examination as indicated by the grading therein has to be ignored solely for the reason that he has passed a higher degree examination.

(8) Mr. V. P. Raman, learned counsel for the petitioner; has argued that this is an illogical and unreasonable requirement. He says that the fact that a candidate has passed a higher degree examination would necessarily establish that he has a deeper knowledge of those subjects, a study in which is required for admission to the M. B. B. S. course, and to ignore that prominent feature and insist upon a minimum grading in an examination at a lower level, is, according to him, not only unreasonable but also not in consonance with the object to be achieved, such object, according to the learned counsel, being that a candidate seeking admission to the M.B.B.S. course has to have a certain basic knowledge in certain subjects. He says that the pass in the higher degree examination is itself evidence of the fact that the candidate possesses a greater knowledge in those subjects than one who has passed the Pre-university examination in those subjects. The classification of B. Sc. candidates made in the above manner does not, according to the learned counsel, fit in with the object to be achieved, viz., the selection of suitable candidates for admission.

(9) The short answer to this on behalf of the respondent is that it is open to the authorities entrusted with selection of candidates to fix certain minimum standards for the purpose of selection. If I understand the learned Additional Government Pleader rightly, he says that the large mass of students seeking admission are those who have certain minimum standards required. It is true that this candidate has passed a higher degree examination. But for the purpose which the authorities have in view, viz., the selection for admission to these colleges, it would be an invidious distinction if a higher degree examination the consideration of his performance at the Pre-university examination were to be ignored. It is also urged by the learned Additional Government Pleader that it is open to the authorities to specify particular qualification, the reasonableness of which cannot possibly be tested by the court. The fixation of minimum standards at a particular examination is intended to secure a uniformity of the application of the rules governing selection. It was not intended to have a higher degree examination as the basis for the selection. But, in the case of persons who had acquired a higher degree, in view of the fact that they had studied one or other of the specified subjects during their B. Sc. course, the rules provide that they would be exempted from the study of that subject in the first year of the M. B. B.

S. course. Sub-paragraph (c) of paragraph 1 of the prospectus clearly explains this.

(10) I have already expressed my view that sub-paragraph (c), as it stands, does require that even a candidate who has taken a higher degree should possess a minimum grading in the Pre-university examination. The question is whether this is an arbitrary and unreasonable requirement totally unrelated to the purpose to be achieved, and whether for these reasons the classification of the candidates, who had taken a higher degree and the refusal to consider their higher qualification is violative of Article 4 in any manner.

(11) The learned Additional Government Pleader has brought to my notice the fact that in the higher degree B. Sc. examination, the candidate offers only two of the specified subjects, either Zoology or Botany as the main subject and Botany or Zoology as the ancillary subject. A candidate who has passed the Pre-university examination has to offer no less than four subjects, that is to say, Physical sciences, with basis mathematics which includes a study of physics and chemistry as well as Zoology and Botany under part III of group A. A candidate who appears for the Pre-university examination and secures certain gradings at a pass right to be classed differently from a person who takes on subject at each examination. He argues that it is open to the selecting authorities to insist upon the requisite grades being obtained at a single examination and not piecemeal at several examinations. In this view, he claims that there is no unreasonable classification offending the principle of equality.

(12) It is exceedingly difficult to see how the insistence upon a minimum grading at the Pre-university examination even in the case of a person who has taken a higher degree Examination is an unreasonable requirement. That persons who have taken a higher degree examination from a separate class as it were from those who have passed only the Pre-university examination goes without saying. It is noteworthy that in so far as the passing the higher degree examination is concerned, the rules do not require by minimum standards. In effect, the selection authority merely says "we will be guided only by the performance at the Pre-university examination, as that is the minimum education qualification required for admission to the M.B.B.S. course; but we require certain minimum standards in the marks obtained in each of the subjects at such Pre-university examination." While not refusing to consider the B.Sc. degree holders for admission to the M.B.B.S. course, the rules quite clearly state that the nature of their pass in the B.Sc. degree examination is not a matter for consideration,. What in effect Mr. Raman complains is that this is improper and a higher degree examination should for that reason alone be regarded as superior to a candidate reason alone be regarded as superior to a candidate who has passed only the Pre-university examination and should not be screened from selection whatever his performance at the Pre-university examination may be. I can see no conceivable reason why a person who has taken a higher degree examination should solely on that ground steal a march over other candidate. The requirement with regard

tot he standards for admission is a matter which should normally lie within the exclusive province of the educational authorities and the court's interference in a matter of that kind would virtually to be intrude in a field of which the court has no special knowledge. But, a nevertheless, if it should be established that a classification is arbitrary and unreasonable and not relevant to the object to be achieved, the court may step in, though it may not be in a position and it would indeed be undesirable for the court itself to specify any standards to regulate selection.

(13) The decision in *Srimathi Champakam Dorairajan and Another Vs. The State of Madras*, has been referred to & relied upon for the purpose of showing that here has been a violation of Article 14 as well. That was a case where the Government order which purported to discriminate against the citizen on the ground of caste in the matter of admission to educational institutions was considered. The matter was dealt with principally on a consideration of Art. 15 and Article 29(2) of the Constitution. Nowhere in that judgment was the question dealt with on the basis of any qualifications prescribed for admission other than those that would offend the above said Articles. On the question whether Article 14 applied, Viswanatha Sastri J. observed:

"I am by no means clear that the communal G. O. allotting 8 out 14 seats for Non-Brahmin Hindus and two seats each for Brahmins and Harijans and one seat each for Christians and Muslims is not a discrimination violate of Art. 14 of the Constitution. As however this point was touched upon but not fully argued on behalf of the applicants, I do not rest my conclusion on the ground that he communal G. O. is in violation of Article 14 of the Constitution.

Article 14 of the Constitution enacts a general rule which the succeeding Articles are particular applications of that rule. The exercise of Government power, be it legislative or executive would be illegal and unconstitutional if it violates the rights and privileges guaranteed to citizens by these Articles."

(14) Basing himself on these observations, Mr. Raman, learned counsel for the petitioner, claims that the present mode of classification of B. Sc. degree holders offends Article 14. The judgment of the Madras High Court was confirmed by the Supreme Court, but the matter was dealt by the Lordships of the Supreme Court only on the basis of Article 29 but, in the concluding paragraph, they observe that the communal G. O. being inconsistent with the provisions of Article 29(2) in Part III of the Constitution is void under Article 13. The view was obviously taken that the G. O. could be regarded as a law within the meaning of Article 13 of the Constitution. But their Lordships did not find it necessary to consider the effect of Article 14 or 15.

(15) The learned Additional Government Pleader has referred to a decision of the Andhra Pradesh High Court in *A. Muralidhar and Others Vs. The State of Andhra Pradesh*, . That was also a case where admission to an educational institution was in question. Certain candidates who had appealed for admission tot the

Osmania Medical College were not called for interview and they moved the High Court by way of writ proceedings. The petitioners, therein were persons who had passed the B. Sc. examination but they did not come up to the requisite standard on the basis of their performance at the Intermediate examination which was the qualification specified in the relevant G. O. which purported to control the admissions. Virtually, the same quoin as in the present case arose. The learned Judges proceeded to hold that the Government order was not passed in the exercise of any legislative authority, that it conferred no right and created no liability on any individual and that it could not be regarded as law in any sense of the term. The view was accordingly taken that Article 14 was not violated.

(16) The question whether Article 14 would apply is a matter of considerable difficulty and I do not think that a decision is really called for on that head. I would therefore confine myself to the question whether the particular requirement the validity of which is challenged is an unreasonable one, which has no relation whatsoever to the object to be achieved, viz., the selection of proper candidates for admission.

(17) Giving the matter most careful consideration, I am not satisfied that the charge (sic) that the requirement with regard to the grades in these subjects obtained at the Pre-university examination even in the case of candidates who have taken a higher examinations is in any way unreasonable. Apart from my personal view, I am satisfied that this is principally a matter which would be left to the educational and other controlling authorities. I can see nothing unreasonable in fixing certain standards for admission. Any standards so fixed must be in a manner not speaking arbitrary, for anyone can say that a different standard would be more suitable for the purpose in view. It could be largely a matter of opinion and unless the standards prescribed are so unrelated to the securing of proper candidates for admission, no one least of all a court, can adjudicate upon the precise measure of the qualification.

(18) On both the grounds advanced by the learned counsel for the petitioner, viz., that the Prospectus does not indicate that even in the case of candidates who have passed the B. Sc. examination, their performance at the Pre-university examination would have to be taken as a guiding factor, and on the other point that such requirement is unreasonable. I am unable to agree with the contentions.

(19) It follows that the petitioner is not entitled to the writ that he prays for. The petition is dismissed, but there will be no order as to costs.

(20) Petition dismissed.