
(2008) 06 KAR CK 0086
In the Karnataka High Court
Case No : Writ Petition No. 8058 of 2008

Mr. Apurv Kumar Mishra

APPELLANT

Vs

National Law School of India University

RESPONDENT

Date of Decision : 30-06-2008

Acts Referred:

Karnataka National Law School of India Act, 1986 — Section 13

Citation : (2009) 1 KarLJ 704

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : M. Ashwathanarayana Reddy, for the Appellant; Holla and Holla, for the Respondent

Final Decision : Dismissed

Judgement

B.S. Patil, J.—In this writ petition, the petitioner is challenging the communication dated 05.06.2008 vide Annexure-U informing him that he was not eligible to take admission in any of the 7 Law Universities and that his application for admission could be considered only for 2 Universities, viz., Rajiv Gandhi National University of Law, Patiala; and Chanakya National Law University, Patna. Petitioner has also sought for a declaration that fixation of age limit as 20 years (wrongly mentioned as 21 in the prayer column in the Writ Petition) for admission to the Law Course in the respondent-University as on 01.07.2008 is illegal and unconstitutional.

2. The 2nd respondent issued a Notification inviting applications for Common Law Admission Test ("CLAT", for short) for admission to 7 Law Schools in different parts of the country. The CLAT was scheduled on 11.05.2008. The notification discloses the eligibility for taking the test as 10+2 examination or equivalent with not less than 50% marks with the age limit of 20 years as on 01.07.2008. The said advertisement published in the newspaper is produced at Annexure-E. Pursuant to the said paper advertisement, the petitioner applied for the CLAT showing his first preference for the 1st respondent-National Law School of India

University, Nagarabhavi, Bangalore. Petitioner has also written letters addressed to the Vice Chancellor, National Law School of India University, Bangalore (respondent No. 1) stating that although he was over aged having exceeded the age limit of 20 years by approximately 10 days as on 01.07.2008, he was entitled to take the CLAT in 2008 under the legitimate expectation and belief as the Vice Chancellor had addressed a letter dated 16.06.2007, as per Annexure-C, informing him that he felt sorry that the petitioner could not secure a seat in the previous examination held in the year 2007 and that for the coming academic year, hopefully a common entrance test for all the law schools would be held and the petitioner could realize his ambition at that time. Petitioner further asserts that based on the guidance and assurance given by the authorities, he made critical career choices and decided not to prepare for engineering admission and instead prepared for law admission.

3. The petitioner was issued a hall ticket by the 2nd respondent and he appeared for the test on 11.05.2008. The results of the CLAT held by the 2nd respondent were declared on 17.05.2008. Petitioner secured 144 marks and was assigned 43rd rank. The 2nd respondent published the list of candidates allocated to 7 National Law Universities. Petitioner was allotted the 1st respondent-University and his name was shown at Sl. No. 41 in the said list. He was provisionally selected for admission to the 1st respondent-University for the first year Undergraduate degree programme for the academic year 2008-09. In pursuance of the provisional admission, petitioner obtained a demand draft dated 05.06.2008 for Rs. 1,15,770/- towards the fee payable and sent the same to the 1st respondent. On the same day, petitioner had also sent an E-mail to the 2nd respondent indicating the acceptance of admission.

4. When things stood thus, the 2nd respondent sent an E-mail to the petitioner on 05.06.2008 stating that he was not eligible to take admission in any of the 7 Law Universities including the 1st respondent, as the petitioner would be completing 20 years of age on 21.06.2008. It was also stated that the respondents would consider the petitioner's application for admission to Rajiv Gandhi National University of Law, Patiala; and Chanakya National Law University, Patna. Aggrieved by this communication, the present writ petition is filed.

5. Learned Counsel for the petitioner Sri Ashwathanarayana Reddy submits that having accepted the application submitted by the petitioner wherein his date of birth was clearly mentioned as 21.06.1988 and having permitted him to take the CLAT Test conducted and further having issued provisional admission letter dated 02.06.2008, it was not open for the respondents to cancel the admission on the ground that his age exceeds the permissible limit. He further states that the respondents were estopped from taking up such stand and that the doctrine of legitimate expectation applies to the facts of the case. He has next contended that the petitioner has not suppressed his age, on the contrary he had written letters explaining several circumstances and making a request to issue admission

in order to enable him to appear for the CLAT though he was not within the age limit of 20 years as on the cut-off date. Therefore, he contends that for no fault on the part of the petitioner, the admission given to him is cancelled. His next contention is that the fixation of lower age limit at 20 years is arbitrary, as there is no rational nexus with the object sought to be achieved. It is lastly contended that the age limit indicated in the paper advertisement and also in the information brochure is without authority of law, as there is no regulation or law which clothes the respondents with such a power to fix the age limit. In other words, he contends that in the absence of statutory rule or regulation, the very fixation of age limit of 20 years as eligibility criteria for admission is illegal. He has placed reliance on the judgment rendered by this Court in the case of Bellary Steel and Alloys Limited Vs. State of Karnataka, .

6. The respondents have filed their statement of objections. They have contended that as the petitioner was above the age of 20 years as on 01.07.2008, he was not eligible for admission to the 1st respondent-University. It is further contended that right from the year 1987 upto 2007, the 1st respondent-University had been conducting the entrance test for admission to its university. However after the establishment of law schools in different places in the country, which are run on the same lines as that of the 1st respondent-University and as there was a clash with regard to the schedule and the dates of entrance test in various Law schools, writ petition was filed in the Apex Court wherein directions were issued to conduct common entrance test for admissions to these various law schools, whereupon the seven Law schools signed a Memorandum of Understanding on 23.11.2007 agreeing to hold a common admission test. For this purpose, the 2nd respondent was constituted. It is further stated that the brochure for the CLAT was made available to all the candidates wherein the eligibility criteria in respect of each of the 7 Universities including the 1st respondent was enumerated. It is alleged that as regards these seven law schools, the age limit prescribed is that the candidates must not have completed the age of 20 years as on 01.07.2008. As the Memorandum of Understanding reached between the 7 National Law schools also provided for other law colleges to utilize the test scores of the common entrance test, three law colleges viz., Chanakya National Law University (Patna), Dr. Ram Manohar Lohia National Law University (Lucknow) and Rajiv Gandhi National University of Law (Patiala) were also permitted to utilize the results of the entrance test for their admissions. However these law colleges permit students upto the age of 21 years to be admitted. Thus it is contended that as the petitioner would cross the age of 20 years as on 01.07.2008, he was not eligible for admission to the 1st respondent-University. However it is urged that the petitioner is eligible for admission to any of the other Universities/Colleges if he fulfills other eligibility criteria. It is the further stand of the respondent-University that due to a computer error, petitioner's name was shown in the provisional admission letters and hence he was called for the interview. When the mistake was noticed by the 1st respondent, they informed the petitioner that he was not eligible as he did

not fulfill the criteria regarding age limit prescribed. The demand draft submitted by the petitioner was also returned.

7. Counsel for the respondents Sri Holla contends that the 2nd respondent is merely an agency which conducts the entrance test and the actual admission to each of the colleges/Universities would be made by the respective universities in accordance with their admission procedures and eligibility requirements. He further urges that the CLAT was introduced as a consequence of the proceedings before the Apex Court for mitigating the hardship, both physical and financial to the candidates due to multiple admission tests being conducted for different law schools in different places. He submits that fixation of age limit of 20 years is made by framing regulations in exercise of the power conferred u/s 13 of the National Law School of India Act (Karnataka Act 22 of 1986) ("Act", for short). Learned Counsel has made available to the Court the relevant regulations alongwith the minutes of the Academic Council, Executive Council and the General Council. Based on the approval given by the General Council to the eligibility criteria for admission to the 1st respondent-University, regulations are framed prescribing the eligibility, including the fixation of the age limit. He therefore submits that the contentions urged by the petitioner stating that the age limit prescribed was without authority of law, is baseless. He has also contended that the petitioner having chosen to apply for the CLAT in pursuance of the advertisement issued and the brochure published, wherein the age limit of 20 years was specifically mentioned, cannot be permitted to challenge the validity of the eligibility criteria regarding the age limit at this stage. He further submits that there cannot be any estoppel against the statute or a statutory rule made and the respondents were well within the right to correct the mistake inadvertently committed in providing admission to the petitioner in the 1st respondent-University which was basically an error that has crept in due to inadvertence and due to computer related errors. In support of his contentions, he has placed reliance on the following judgments.

- (i) Martin D. v. University of Mysore and Ors. reported in 1983(2) KLJ 175.
- (ii) B.L. Sreedhar and Others Vs. K.M. Munireddy (Dead) and Others,
- (iii) Food Corporation of India and Another Vs. Ram Kesh Yadav and Another,
- (iv) Union of India (UOI) and Another Vs. Narendra Singh,
- (iv) Ram Chandra Tripathi Vs. U.P. Public Services Tribunal IV and Others, .

8. Having heard the learned Counsel for the parties and in the light of the materials on record, the question that falls for consideration is,-

Whether the 1st respondent was justified in issuing Annexure-U communication informing the petitioner that he was not eligible to take admission in the 1st respondent University?

9. As the petitioner had taken a contention urging that the fixation of age limit of

20 years as on 1st July of the year of admission (2008 in the instant case) was made without authority of law, the respondents were called upon to produce the relevant regulations, if any, framed by the 1st respondent with regard to the age limit prescribed. Pursuant to the same, the 1st respondent has produced alongwith a memo dated 27.06.2008 relevant extracts of the minutes of Academic Council and the Executive Council as approved by the General Council including the Regulations framed, wherein the age limit requiring a candidate belonging to General category seeking admission to the course is stipulated. It states that the candidate should not have completed 20 years of age as on 1st July of the year of admission. Section 13 of the Act provides for power to frame regulations as per which the Executive Council has the power to frame regulations to provide for admission and management of the affairs of the Law school. Therefore the regulations framed prescribing the age limit for admission are traceable to the statutory provision contained u/s 13 of the Act, and hence the contention urged by the Counsel for the petitioner that the prescription of age limit is without authority of law has no substance.

10. The next contention urged by the petitioner is with regard to the principle of estoppel and the legitimate expectation. It is nodoubt true that the petitioner-student was informed by the 2nd respondent vide Annexure-Q dated 02.06.2008 stating that on his performance at the CLAT, he was provisionally selected for admission to the National Law School of India University, Bangalore (1st respondent). He was also informed by the said communication that he was required to send a demand draft along with the enclosed declaration duly signed so as to reach the University by 16.06.2008 and that upon receipt of the demand draft and the declaration, the admission of the candidate was complete. It is also true that pursuant to this letter, the petitioner has submitted the demand draft dated 05.06.2008 for a sum of Rs. 1,15,770/-. But on the very same day, the respondent-University has informed the petitioner of the ineligibility of the petitioner to take the admission.

11. The contention of the learned Counsel for the petitioner that permission given to the petitioner to appear for the entrance test by issuing admission card followed by publication of rank list coupled with the provisional admission granted operates as estoppel against the 1st respondent cannot be accepted. As rightly contended by the learned Counsel for the respondent, apart from the 7 Law schools who first joined together to conduct the CLAT and who had notified the eligibility criteria regarding age limit as 20 years as on 01.07.2008, three other law schools viz., Chanakya National Law University (Patna), Dr. Ram Manohar Lohia National Law University (Lucknow) and Rajiv Gandhi National University of Law (Patiala) joined hands with the 7 Law schools and the CLAT was conducted for selecting students for admission to these 3 Universities also, and that these 3 Universities had fixed the age limit for admission at 21 years under their rules, and therefore the petitioner was entitled to take admission and his ranking was also required to be announced as he was eligible for being considered for admission in respect of these 3 Universities. Therefore the

question of applying the principle of estoppel only on the ground that the petitioner was permitted to appear for the CLAT and the rank list was announced does not arise.

12. As regards the provisional admission given to the petitioner by issuing a communication dated 02.06.2008 vide Annexure-Q and of the acceptance of demand draft for a sum of Rs. 1,15,770/-, the stand of the University is that due to computer error the eligibility of the petitioner could not be noticed, as a result, inadvertently communication was issued stating that he was provisionally selected for admission. The moment this was noticed, the authorities have taken steps to inform the petitioner that he was ineligible as per the rules for the 7 Law Universities and that Ids case could be considered in respect of 3 Universities who have fixed the age limit of 21 years. In such circumstances, the principle of promissory estoppel and of legitimate expectation cannot be applied. It is well established that the principle of estoppel does not operate against the statute. The regulations framed by the University have the force of law as the said rules are framed in exercise of the statutory power conferred u/s 13 of the Act.

13. As rightly contended by the learned Counsel for the respondent, this Court cannot issue a direction to the 1st respondent to admit the petitioner despite his ineligibility, as otherwise it will amount to issuing a direction to do something which is contrary to their own regulations. The 1st respondent has no doubt committed a mistake in sending Annexure-Q communication stating that the petitioner was provisionally selected for admission for the 1st respondent-University. Based on the same, the petitioner has given the demand draft. But, that by itself will not clothe him with a right to claim admission, as the respondents were entitled to correct their mistake immediately and without causing serious damage to the academic career of the student. In the instant case, the mistake is rectified immediately and the student is notified of the same without causing further loss or damage to the academic career of the petitioner. Learned Counsel for the respondent is right and justified in placing reliance on the decision of the Apex Court in Union of India (UOI) and Another Vs. Narendra Singh, , wherein it is held that mistakes committed can always be corrected by following due process of law. The Apex Court after referring to the decision in the case of Indian Council of I.C.A.R. and another Vs. T.K. Suryanarayan and others, has held that if erroneous promotion is given by wrongly interpreting the rules, the employer cannot be prevented from applying the rules rightly and in correcting the mistake. It was also observed that though it may cause hardship to the employees but a court of law cannot ignore statutory rules.

14. Though the petitioner has contended that he appeared for the CLAT for all the Law schools in 2008 on the belief expressed by the 1st respondent that the petitioner could realise his ambition of joining National Law School of India University, Bangalore, for the year 2008 and being thus guided and assured made a critical choice of his career and did not prepare for engineering admission and prepared only for Law admission, no such assurance or promise is made by

the respondents holding out that he would be admitted for the law course during the year 2008. Reliance placed by the petitioner on the consolation letter by the Vice Chancellor of the 1st respondent-University on 16.06.2007 vide Annexure-C cannot be construed as an assurance or promise made in this regard. Therefore the petitioner cannot plead estoppel on this basis also. The reliance placed on the judgment of this Court reported in Bellary Steel and Alloys Limited Vs. State of Karnataka, is also not apposite to the facts of the case.

15. For the aforementioned reasons, the petition being devoid of merits is liable to be dismissed and is accordingly dismissed.

However, in the present case, it has to be observed that the petitioner was unnecessarily put to hardship, agony and disappointment due to the mistake committed by the 1st respondent in giving him provisional admission and thereafter informing him that he was not eligible for being admitted to the 1st respondent-University. It is on account of this mistake on the part of the 1st respondent-Institution that the petitioner had to approach this Court. He has suffered financial loss in prosecuting this litigation. It is also surprising to note that the respondents 1 & 2 could commit such glaring mistakes which have lead to such consequences of generating hopes and aspirations in the young mind only to result in frustration and disappointment later. In the circumstances, I deem it appropriate to award a sum of Rs. 10,000/- as costs payable by the 1st respondent to the petitioner within three weeks from today.