

(2013) 08 MP CK 0106
In the Madhya Pradesh High Court
Case No : Writ Petition 5811 of 2013

Ms. Arti Sharma and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 29-08-2013

Acts Referred:

Advocates Act, 1961 — Section 24(1)(c)(iii), 49(1)(af), 7(1)(h)

Citation : (2013) 08 MP CK 0106

Hon'ble Judges : S.K. Gangele, J;M.K. Mudgal, J

Bench : Division Bench

Advocate : D.P. Singh, for the Appellant; Sushil Chaturvedi, Advocate for Respondent No. 3, Jiwaji University, for the Respondent

Final Decision : Allowed

Judgement

1. Heard on IA 6298/13 an application for exemption from payment of separate court fees for each of the petitioners. Considering the fact that the petitioners have same cause of action and they have filed this petition praying for similar relief, the application is allowed and the petitioners are hereby exempted from payment of separate court fee for each of them. Heard on admission.

2. The petitioners have filed this petition in regard to non-grant of admission in L.L.B. Course. It is submitted that the petitioners were denied admission in L.L.B. Course on account of age bar in accordance with Rule 28 of the Bar Council of India Rules under the Advocates Act, 1961.

3. The Bar Council of India framed rules named as Rules of Legal Education, 2008 in exercise of powers under Sections 7(1)(h) and (i), 24(1)(c)(iii), and (iiia), 49(1)(af), (ag), and (d) of the Advocates Act, 1961. The Rule 28 of the Rules of Legal Education, 2008 prescribes the age for admission in L.L.B. Degree Course. The relevant rule is as under:-

28. Age on admission: (a) Subject to the condition stipulated by a University on this behalf and the high degree of professional commitment required, the

maximum age for seeking admission into a stream of integrated Bachelor of law degree program, is limited to twenty years in case of general category of applicants and to twenty two years in case of applicants from SC, ST and other Backward communities.

(b) Subject to the condition stipulated by a University, and the general social condition of the applicants seeking legal education belatedly, the maximum age for seeking admission into a stream of Three Year Bachelor Degree Course in Law, is limited to thirty years with right of the University to give concession of 5 further year for the applicant belonging to SC or ST or any other Backward Community.

4. The aforesaid rule has already been declared ultra-vires by the High Court and a SLP is pending before the Hon"ble Supreme Court. The relevant finding in this regard has been recorded by the Division Bench of this Court in W.P. No. 11925/2011, wherein the Division Bench has passed the following order:-

Learned counsel for the petitioners, at the outset, submitted that the controversy involved in this petition regarding validity of Clause 28 of the Bar Council of India Rules under the Advocates" Act, 1961, Part IV, prescribing age limit in L.L.B. course in engaging attention of this Court in W.P. No. 5225/2009 wherein an interim order had already been passed on 18-6-2009. The said order is enclosed as Annexure-P/4 to the instant writ petition. Learned counsel further informed at the bar that another High Court has already declared aforesaid Rules ultra vires and an SLP is pending before the apex Court. However, the apex Court has declined to grant stay.

On payment of process fee by registered AD within one week, issue notice to the respondents. Notices be made returnable within four weeks.

Having heard the learned counsel for the petitioners, it is directed that if the petitioners are otherwise eligible, they shall be admitted to the Course and not be debarred on the basis of amended provision. Needless to emphasise, the same shall be subject to the result of this petition and further no equity shall flow because of the aforesaid interim order.

Let the matter be listed after four weeks along with W.P. No. 5225/2009.

5. When the rule has been declared ultra vires by the High Court and no stay has been granted by the Hon"ble Supreme Court, in that circumstances, the petitioners cannot be denied admission on the basis of the aforesaid rule.

6. Hence, the petition of the petitioners is allowed. It is held that the petitioners could not be denied admission on account of age limit as prescribed under the Rule 28 of the Bar Council of India Rules under the Advocates Act, 1961. The admission of the petitioners shall be subject to final order, that may be passed by the Hon"ble Supreme Court in the SLP No order as to costs.