

(2001) 09 J&K CK 0010

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 331 of 2001

Ms. Rafia Durani

APPELLANT

Vs

University of Kashmir

RESPONDENT

Date of Decision : 24-09-2001

Acts Referred:

Constitution of Jammu and Kashmir, 1956 — Article 103
Jammu and Kashmir Evidence Act, 1977 — Section 115

Citation : AIR 2002 J&K 126

Hon'ble Judges : Syed Bashir-Ud-Din, J

Bench : Single Bench

Advocate : A. Haqani, for the Appellant; R. Bazaz, for the Respondent

Final Decision : Allowed

Judgement

Syed Bashir-Ud-Din, J.—Considered Admit.

2. Notice.

3. Mr. R. Bazaz, takes notice at this post-admission stage and submits that the respondents are not desirous to file reply or further pleadings and

instead the objections already filed may be considered. As the counsel are agreed for final disposal of the writ petition, therefore, are heard.

4. Pursuant to Notification TR/KU/ 2000-53 dated 8-3-2000 (Annexure-A) petitioner on prescribed form applied for admission to Post-

Graduate Programme of M.Ed for the academic Sessions 2000-2001. Petitioner appeared in interview/test and came to be selected for the course

programme in Open Merit Category (Annexure-C). After the fee was accepted she was admitted to M.Ed Programme of one year's duration and

attended the class for over three months, when the respondents without formally cancelling her admission to the Programme, attempted to restrain

her from prosecuting the studies on the ground that she had already obtained Post-Graduate Course (M.A.) Linguistics. In terms of Brochur

Information she was not barred to seek admission and prosecute the Post-Graduate Programme inasmuch as M.Ed Course within the captioned

other programmes are not covered by any decision or rule of the University that a candidate to be eligible for admission to the another Post-

Graduate Programme as a regular student should not have obtained one Post-Graduate degree in Post-Graduate Programme of Linguistics. The

disability clause of the Information Brochur is not applicable to the petitioner's case.

5. The petitioner has been admitted to the course after she has given all the information required as per the University Admission Notification

Annexure-A, and therefore could not be deprived of the degree and her candidature could not be withdrawn when she has been even allowed by

the University to appear in the final examination and only the result is to be declared.

6. In reply, respondents have not denied that petitioner succeeded on her merit in OMC to get admission in M.Ed for the Session and after

depositing the fee she has been admitted to the course and has regularly attended the classes. It is not as well denied that she has been allowed to

regularly attended the entire length of the course lasting for one year and has been allowed by the University to appear in the final examination. Her

result alone is to be declared.

7. Respondents submit that as she had got Post-Graduate Degree in Linguistics, therefore, she could not have appeared in M.Ed, as per the policy

of the University. As she had not disclosed having already completed Post-Graduate Course in M. A. Linguistics, therefore, the University

cancelled her admission to the post. However, Mr. Bazaz, the learned counsel was asked to place on record the cancellation of the admission of

the petitioner to the course, he simply ducked the query under the reply that the same is not forthcoming from the University records.

8. Petitioner's counsel submits that the admission of the petitioner was never cancelled and she was allowed to attend and complete the course as

regular student and she was also allowed to appear in the examination, therefore, in such circumstances, respondents are estopped from

withholding the result of the petitioner.

9. In *Shri Krishnan Vs. The Kurukshetra University, Kurukshetra*, in the context of examination of the student, the Supreme Court observed that

once the candidate is allowed to take the examination, rightly or wrongly, then the statute which empowers the University to withdraw the

candidature of the applicant has worked itself out and the candidate cannot be refused admission subsequently for any infirmity which should have

been looked into before giving the candidate permission to appear.

10. Once she is admitted and allowed to appear in the final examination as a regular student, her result, would have to be declared as principles of

estoppel applies against the University authorities, who are precluded and estopped from cancelling/withdrawing the candidature of the petitioner

allowed to appear in the examination and complete the examination. In such eventuality, her result cannot be withheld.

11. See (1) *Ambika Prasad Mohanty and etc. Vs. Orissa Engineering College and Another, etc.*, ; (ii) *Bireswar Mohapatra's case* AIR 1977 Ori

62; (iii) *Safiya Farhat Vs. Board of School Education*, . Faced with the fact situation, as above, and law applicable to this case, Mr. Bazaz,

submits and concedes that the Court may issue directions to the respondents/competent authority of the University to declare the result of the

petitioner of the said M.Ed. Examination. However, Mr. Bazaz, submits that the direction, merited on the peculiar facts and circumstances of this

case, be not made to serve as a precedent for other similar cases, to seek benefit of the judgment.

12. In result, the writ petition as also the CMP 468/2001 is allowed. Respondents/Competent authority is directed to declare the result of the

petitioner of M.Ed. Programme for Session 2000-2001, in the annual examination of which programme, she has been admitted as a regular student

of the University. However, it is made clear that this decision, given in the peculiar facts and circumstances of this case, shall not serve as a

precedent for disposal of like other cases.