

(2015) 05 DEL CK 0153
In the Delhi High Court
Case No : Writ Petition (C) 6320 of 2012

Nandan Mishra

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 12-05-2015

Acts Referred:

Constitution of India, 1950 — Article 226

University Grants Commission Act, 1956 — Section 2(f), 22(1), 22(2), 22(3), 3

Citation : (2015) 05 DEL CK 0153

Hon'ble Judges : Vibhu Bakhru, J

Bench : Single Bench

Advocate : Asmita Singh, for the Appellant; Mohinder J.S. Rupal, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Vibhu Bakhru, J.—The petitioner is aggrieved by his name being excluded from the ad hoc panel list for the academic session 2012-13 prepared by the University of Delhi. This has led the petitioner to file the present petition, inter alia, praying that directions be issued to the University of Delhi to include the name of the petitioner in the ad hoc panel list for Department of Sanskrit.

2. The petitioner's name has been excluded from the ad hoc panel list as, according to the University of Delhi, the petitioner's qualification of "Acharya" is not considered equivalent to Master of Arts (hereafter "MA"). This was communicated to the petitioner by a letter dated 04.09.2012, which is also impugned in this petition.

3. Briefly stated, the facts relevant for considering the petition are as under:

3.1. The petitioner joined Kameshwar Singh Darbhanga Sanskrit University, Darbhanga for Graduate Degree Course in Sanskrit and was awarded the degree of "Shastri" on completion of the course in 1985. The petitioner asserts that thereafter, the petitioner undertook the Post Graduate Course in MA Sanskrit

from the aforesaid University and was awarded the degree of "Acharya". A copy of the said degree, filed along with the petition, indicates that the petitioner was awarded the degree of Acharya in Phalit Jyotish. The petitioner persevered further with academics and was awarded the degree of "Vidyavaridhi" by Shri Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeetha, which is a deemed University.

3.2. The petitioner was appointed as guest faculty in Dayal Singh Evening College, University of Delhi, in January 2011. The University of Delhi also included the name of the petitioner in the ad hoc panel list for the academic session 2011-12, which was issued on 15.06.2011. This list was revised in October 2011 but the petitioner continued to be included in the said list. The petitioner was thereafter appointed as an Assistant Professor in Dayal Singh Evening College w.e.f. 10.04.2012 to 21.05.2012.

3.3. The petitioner's name was excluded from the ad hoc panel list (Department of Sanskrit, University of Delhi) which was circulated for the academic session 2012-13; according to the University of Delhi, the petitioner did not have the requisite qualification - MA in Sanskrit. The ad hoc panel list assumes importance as the colleges affiliated with the University of Delhi consider the persons empanelled for appointment as their faculty.

4. According to the petitioner, the degree of Acharya is equivalent to a degree of MA in Sanskrit and the Degree of Vidyavaridhi is equivalent to a Doctorate of Philosophy. The petitioner relied upon the following documents in support of this contention:-

(i) Memorandum No. 14021/3/97-Estt. dated 04.05.1998 issued by the Government of India, Department of Personnel, Public Grievance and Pensions (Department of Personnel and Training). The said memorandum clearly indicates that the Government of India decided to recognise the examinations conducted by Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, Bihar as equivalent to the educational qualification in the general setup of education for the purpose of employment under the Central Government. The examination of Acharya is being specifically considered to be equivalent to MA and Vidyavaridhi has been considered equivalent to Ph.D.

(ii) A Communication dated 28.08.2012 issued by the University Grants Commission (respondent no. 4) clarifying that the degree of "Acharya" is equivalent to MA.

(iii) A communication from Rashtriya Sanskrit Sansthan which refers to Delhi University's letter dated 14.11.1984, whereby the degree of Acharya has been equated to MA.

5. The petitioner has further relied upon the decision of the Supreme Court in Rampalit Vyakaran Acharya and Others Vs. Punjab University, Chandigarh and Another, AIR 1975 SC 2478 : (1975) LabIC 1751 : (1976) 2 LLJ 1 : (1976) 3 SCC 282 : (1975) 7 UJ 828 in support of its contention that the degree of Acharya is

equivalent to the degree of MA. In addition, the petitioner submitted that by virtue of Regulation 8(IX) of the Statute of University, the question of equivalence of degrees has to be determined by the Academic Council of the Delhi University. It was contended that the University of Delhi has not been able to produce any material to indicate that its Academic Council has not accepted the degree of Acharya as equivalent to that of MA. The petitioner contended that in absence of the relevant decision by the Academic Council, the communication dated 04.09.2012 was liable to be set aside as being contrary to the Statute of the University.

6. The University of Delhi (respondent no. 1) controverted the submissions made on behalf of the petitioner. It was submitted that the petitioner was included in the ad hoc panel for the academic year 2010-11 as the petitioner had misrepresented his qualifications as MA and Ph.D. This misrepresentation had been overlooked; however as soon as the said discrepancy was noticed the petitioner's name was excluded from the ad hoc panel.

7. According to the respondent, there are two streams of Sanskrit; one being the traditional stream and the other being the modern stream. Pursuing the traditional stream of studies leads to the degrees of Shastri and Acharya. Students successfully completing their studies under the other stream - the modern stream - are awarded the degree of MA. According to the respondent, there is a clear distinction between the two streams and since the traditional subjects are not taught in the colleges affiliated with the University of Delhi, the University of Delhi insists that only candidates qualified as MA from a recognised university, be appointed to the post of Assistant Professor. The learned counsel for the respondent submitted that the degree produced by the petitioner indicates that he has been awarded the degree of Acharya in the subject of Phalit Jyotish and the appointment sought by the petitioner is on a post for teaching Sanskrit as a language and not the traditional subjects which are taught in Sanskrit. It is contended that, therefore, the petitioner's qualification of Acharya cannot be considered as equivalent to MA in Sanskrit.

8. The principal controversy to be addressed is whether the qualification of Acharya conferred on the petitioner could be considered as equivalent to MA in Sanskrit for the purpose of appointing the petitioner on the post of Assistant Professor for teaching Sanskrit language. Before proceeding further, it would be necessary to address the issue whether the degree of Acharya is equivalent to that of MA.

9. There is no dispute that the Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, Bihar is a University within the meaning of Section 2(f) of the University Grants Commission Act, 1956 (hereafter "UGC Act") which defines University as under:-

"2(f) "University" means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as

may, in consultation with the University concerned, be recognized by the Commission in accordance with the regulations made in this behalf under this Act."

10. Further, Shri Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeetha, is a deemed university and by virtue of Section 3 of the UGC Act the provisions of the UGC Act would also apply to such institutions.

11. Section 22(1) of the UGC Act postulates that the right to confer or grant degrees would be exercised by university established by a Central Act, Provisional Act or a State Act or by Institution, which is deemed to be a University under Section 3 of the UGC Act.

12. Section 22(2) of the UGC Act proscribes any person other than as provided under Section 22(1) of the UGC Act from conferring any degree. Section 22(3) of the UGC Act defines a degree to mean such degree as may, with the previous approval of the Central Government, be specified by the University Grants Commission. In exercise of its powers conferred under Section 22(3) of the UGC Act, the University Grants Commission has specified Acharya to be a degree.

13. The counter affidavit filed on behalf of the University Grants Commission further affirms that the degree of Acharya is recognised as a degree equivalent to that of MA.

14. Indisputably, the Central Government has also recognised the degree of Acharya as equivalent to that of MA for the purposes of employment under the Central Government.

15. In Rampalit Vyakaran Acharya (supra), the Supreme Court considered the case of Acharyas who were appointed in Vishveshvaranand Institute of Sanskrit and Indological Studies, Hoshiarpur. The said institute was taken over by the Punjab University. The Court noted that the Vice Chancellor had recommended that the pay scales of personnel in the traditional section be brought in line with the grades obtaining in the University. This recommendation was agreed to. The Supreme Court considered the controversy and upheld the view that the qualification of Acharya was equivalent to that of MA. The relevant extract of the said judgment is quoted below:-

"8. That Acharya is equivalent to M.A. is clear from the Letter No. F. 46-I/63-SU, dated January 23, 1964, from the Government of India, Ministry of Education to Education Secretaries of all the State Governments/Union Territory Governments/Administrations and Registrars of all universities on the subject of equivalence of Sanskrit Examinations as given in an enclosed statement. Entry 21 in column 1 of that statement mentions the Punjab University, Chandigarh, where Shastri is shown as equivalent to B.A. and Acharya to M.A. It is significant to note from the letter of the Ministry of Education that Government is keen regarding development of Sanskrit in the country and it has impressed upon all the universities

"that they should employ at least one traditional Sanskrit scholar and the scholar so employed should enjoy the same status and pay scales as his counterparts trained on modern lines with equivalent degrees".

It goes on further to say

"that the employment of traditional Sanskrit pandits in High/Higher Secondary Schools/ Colleges should also be given due encouragement. Teachers so employed should be treated on a par with other teachers possessing equivalent qualifications of the general educational set- up".

9. That being the position the appellants should have a real grievance if being Acharyas they are now shown the cold shoulder by the University in not giving them their due recognition. From the letter of the Registrar, Punjab University, dated November 6, 1969 quoted above, it is clear that Shastri plus B.A. or Shastri plus Prabhakar is one category and is inferior to Acharya which is at par with Shastri plus M.A. Sanskrit. It is, therefore, clear even from the above letter of the University that Acharyas need not have in addition an M.A. degree in Sanskrit in order to be entitled to the grade of Rs 300-600 quoted above. It is, therefore clear that after their services have been taken over by the University, the appellants will be entitled to scales of pay appertaining to Acharyas and as available to them during the relevant period. Their claim to such scales cannot be defeated by the fact that they are not also in addition holders of M.A. degrees in Sanskrit."

16. In view of the aforesaid, it is apparent that degree of Acharya is equivalent to that of an MA. This has been so recognised by the Central Government for the purposes of employment. However, the point in issue is whether the degree of Acharya could be considered as equivalent to a degree in MA Sanskrit for the purposes of employment as a teacher in Sanskrit Language. The University Grants Commission has framed the Regulations prescribing the minimum qualification for appointment of faculty in Universities.

17. The said Regulations are notified as the University Grants Commission (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standard in Higher Education) Regulations, 2010. Paragraph 4.4.1 of the said Regulations relates to the qualification of Assistant Professors in Arts, humanities, languages etc. and reads as under:-

"4.4.1. Arts, Humanities, Sciences, Social Sciences, Commerce, Education, Languages, Law, Journalism and Mass Communication

i. Good academic record as defined by the concerned university with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master's Degree level in a relevant subject from an Indian University, or an equivalent degree from an accredited foreign university.

ii. Besides fulfilling the above qualifications, the candidate must have cleared the

National Eligibility Test (NET) conducted by the UGC, CSIR or similar test accredited by the UGC like SLET/SET.

iii. Notwithstanding anything contained in sub- clauses (i) and (ii) to this Clause 4.4.1, candidates, who are, or have been awarded at Ph. D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities /Colleges/Institutions.

iv. NET/SLET/SET shall also not be required for such Masters Programmes in disciplines for which NET/SLET/SET is not conducted."

18. Clause (i) of paragraph 4.4.1 of the aforesaid Regulations clearly indicates that an Assistant Professor must have a Masters Degree in "a relevant subject". According to the respondent, the petitioner's qualification is not in a relevant subject inasmuch as the qualifications relate to traditional subjects taught in sanskrit.

19. The learned counsel for the University of Delhi has also drawn the attention of this Court to the prospectus for the Net Eligibility Test (NET) conducted in various subjects. The subject of Sanskrit is listed as subject code 25. Sanskrit Traditional Subjects are considered as separate and are assigned the subject code 73, which reads as under:

"73. Sanskrit Traditional Subjects (including Jyotisha/Sidhanta Jyotisha/Navya Vyakarna/ Vyakarna/ Mimamsa/ Navya Nyaya/ Sankhya Yoga/ Tulanatmaka Darsana/Shukla Yajurveda/ Madhva Vedanta/ Dharma Sastra/ Sahitya/ Purana-itihasa/ Agama/ Advaita Vedanta)."

20. It is apparent, that there are two distinct streams of sanskrit studies; one being the traditional subjects and the other which is considered as a modern stream. According to the petitioner, although the petitioner has been conferred the degree of Acharya in Phalit Jyotish, the subject "Phalit Jyotish" is a wider discipline of Sanskrit. The petitioner contended that Sanskrit is imparted under the traditional stream by specialisation in various traditional subjects like Jyotisha, Sidhanta Jyotisha, Navya Vyakarna etc. However, it was not disputed that the petitioner's degree of Acharya is with respect to study of Sanskrit in the traditional stream. Although the petitioner contended that Acharya in Phalit Jyotish would be equivalent to MA in Sanskrit language, this is stoutly disputed by the University of Delhi.

21. The learned counsel for the University of Delhi contended that even if Acharya is considered to be equivalent to MA, the same cannot be considered as equivalent to MA in Sanskrit language.

22. The traditional subjects are a combination of 15 subjects which do not form a part of curriculum in the modern stream of Sanskrit as a language. Although, the

traditional subjects such as Jyotish/Siddhanta Jyotish, Navya Nyay, Vyakarna etc. are taught through the medium of Sanskrit and the same does not necessarily imply that the post graduate degree of Acharya is a masters degree in Sanskrit language. It is also not disputed that medium of instruction in the modern stream which leads to the degree of MA Sanskrit could be english or any other Indian language, but the specialisation is in the language of Sanskrit. Concededly, the traditional subjects such as Jyotisha, Sidhanta Jyotisha, Navya Vyakarna etc. are not taught in the colleges affiliated to University of Delhi.

23. It also is clear from the rival contentions that the University of Delhi does not consider the traditional subjects of Sanskrit to be relevant subjects for teaching Sanskrit language. Thus, the University of Delhi, has not accepted the degree of Acharya as equivalent to MA in Sanskrit (i.e. MA in Sanskrit language). As I see it, this decision is not amenable to judicial review. This Court cannot supplant its opinion over that of the University.

24. It is well settled that the Courts should be reluctant to intervene in academic matters which are for the experts. The Supreme Court in *Dinesh Chandra Varshney etc. v. The University of Delhi and Ors. etc.*: Civil Appeal No. 1876-77/1993, rendered on 16.04.1983 set aside the decision of the High Court and held that :

"whether the subject is relevant or not, it is for the University to decide and the courts would not be justified in substituting their views in the matter. The High Court, therefore, committed two errors, firstly, in not reading the words "a relevant subject" for the original requirement of "the concerned subject" and secondly, in substituting its view as to whether the Buddhist Studies was a relevant subject or not."

25. The University in its discretion, has specified MA in Sanskrit language to be the necessary qualification. It is well settled that an employer would have the discretion to determine the qualifications required of its employees. This decision is squarely within the discretion of an employer and it is not appropriate for the Courts to impose their opinion in such matters. The Supreme Court in *State of Gujarat and Others Vs. Arvindkumar T. Tiwari and Another*, AIR 2012 SC 3281 : (2012) 8 SCALE 664 : (2012) 9 SCC 545 : (2013) 1 SCT 117 : (2013) 2 SLJ 11 : (2012) AIRSCW 5131 : (2012) 6 Supreme 705 observed as under:

"12. Fixing eligibility for a particular post or even for admission to a course falls within the exclusive domain of the legislature/executive and cannot be the subject-matter of judicial review, unless found to be arbitrary, unreasonable or has been fixed without keeping in mind the nature of service, for which appointments are to be made, or has no rational nexus with the object(s) sought to be achieved by the statute. Such eligibility can be changed even for the purpose of promotion, unilaterally and the person seeking such promotion cannot raise the grievance that he should be governed only by the rules existing, when he joined service. In the matter of appointments, the authority concerned has

unfettered powers so far as the procedural aspects are concerned, but it must meet the requirement of eligibility, etc. The court should therefore, refrain from interfering, unless the appointments so made, or the rejection of a candidature is found to have been done at the cost of "fair play", "good conscience" and "equity". (Vide State of Jammu & Kashmir Vs. Shiv Ram Sharma and Others, AIR 1999 SC 2012 : (1999) 82 FLR 93 : (1999) 2 JT 483 : (1999) 1 LLJ 1080 : (1999) 2 SCALE 325 : (1999) 3 SCC 653 : (1999) SCC(L&S) 801 : (1999) 2 SCR 251 : (1999) 2 UJ 1108 : (1999) AIRSCW 1717 : (1999) 3 Supreme 240 and Praveen Singh Vs. State of Punjab and Others, (2000) 2 JT 526 Supp : (2000) 7 SCALE 452 : (2000) 8 SCC 633 : (2001) SCC(L&S) 62 : (2000) 4 SCR 490 Supp : (2001) 1 UJ 206 : (2000) AIRSCW 4024 : (2000) 7 Supreme 464 "

26. In the present case, the traditional Sanskrit subjects are not taught in colleges affiliated to the University of Delhi. In the given circumstances, I am unable to accept that the decision of the University of Delhi to not treat the qualification of Acharya as equivalent to MA in Sanskrit and exclude the name of the petitioner from the ad hoc panel list, is arbitrary or unreasonable. Thus, the said decision is not amenable to judicial review under Article 226 of the Constitution of India.

27. Accordingly, the petition is dismissed.