
(2017) 02 KAR CK 0020
In the Karnataka High Court
Case No : Writ Petition No. 55888 of 2014

Narayanaswamy R.

APPELLANT

Vs

Karnataka State Law University

RESPONDENT

Date of Decision : 27-02-2017

Acts Referred:

Bar Council of India Rules, 1975 — Rule 5
Bar Councils Act, 1926 — Section 15

Citation : (2017) 2 AirKarR 508

Hon'ble Judges : S. Sujatha, J.

Bench : Single Bench

Advocate : Sri. Rahul M. for Sri. Abhinav R., Advocate, for the Petitioner; Sri. Basavaraj Nayak for Kumar and Bhat, Advocates, for the Respondent No. 1; Is Served, for the Respondent No. 2

Final Decision : Allowed

Judgement

S. Sujatha, J.—The petitioner is assailing the endorsement dated 6.11.2014 issued by the first respondent at Annexure-G, whereby, it is held that the petitioner is ineligible to undertake 5 Years-B.A., LL.B Integrated Course offered by the first respondent.

2. The petitioner has completed his SSLC with aggregate of 65.12% through regular schooling. Subsequently, he completed his I year pre-University course with the Government Pre-University College, Bagepalli in March, 2008. However, for the II year, PUC Course, he appeared as a private student in July, 2009 and passed the said examination in private. The petitioner being desirous of studying the Law Course offered by the first respondent-University, sought for admission for the said course in the second respondent-College, which is affiliated to the first respondent-University. The academic qualification prescribed for the 5 Years-B.A., LL.B Course as contained in Part-B of the Admission Guidelines of the Notification issued by the first respondent dated 8.5.2014 stipulates that, "an applicant who has successfully completed Pre-University course or Senior

Secondary School Course ("12") from a recognised University of India, or outside, or from Senior Secondary Board, or equivalent, constituted or recognised by the Union or by the State Government may apply for and be admitted into the course". It is further clarified that "the applicants who have obtained 12 Higher Secondary Pass Certificate or First Year Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for the admission to the said course". The minimum percentage of marks prescribed for General category is 65.12%. The petitioner being eligible for undertaking 5 Years-B.A., LL.B. Integrated Degree Course, submitted his application through the second respondent-College and paid the entire admission/tuition fees in addition to the Amenity Fund as well as Voluntary Contribution towards Development Fund. It transpires that, subsequently, the second respondent informed the petitioner that his admission has not been approved by the first respondent-University for the reasons that, he has studied II Year Pre-University Course privately. This action of the first respondent in declining the approval for the admission of the petitioner to the 5 Years-LL.B. Course is challenged in this writ petition.

3. The learned counsel Sri. Rahul M. for Sri. Abhinav. R., appearing for the petitioner has submitted that the petitioner has fulfilled and met all the eligibility criteria as required by the Admission Notification issued by the first respondent-University. The petitioner has completed his PUC from the Department of Pre-University Education, Government of Karnataka and a certificate to that effect is also issued. The petitioner having the requisite qualification from the recognised Pre-University/department, the impugned order/endorsement issued by the first respondent is totally unsustainable in law. The learned counsel would submit that there is no restriction in much as the admission to Integrated 5 Years-B.A., LL.B. Course for a candidate who has completed the Pre-University Course, II Year as a private candidate. The first respondent misread Rule 5 of the Bar Council of India Rules, while rejecting the approval of admission of the petitioner. The impugned endorsement is passed in a cavalier manner which is perfunctory and without jurisdiction.

4. The learned counsel for the petitioner placed reliance on the order of this Court in the case of Mr. Bhargav B.L. v. Dr. Ram Manohar Lohia Law College and others in W.P. No.10458/2016 (DD 29th August, 2016).

5. On the other hand, learned counsel Sri. Basavaraj Naik, for Sri. Kumar and Bhat, appearing for the first respondent supporting the impugned endorsement/order placing reliance on the judgment of this Court in the case of Sudha Rani K. v. State of Karnataka and others in Writ Petition No.36654/2015 and connected matters (DD 16th December, 2016) would contend that Explanation 2 of Rule 5 makes it clear that the petitioner who has obtained 10+2 (2nd PUC) through private is not eligible to consider for the admission of 5 Years B.A., LL.B. Integrated Degree Course. Learned counsel submits that the petitioner completing his II Year PUC Course privately is an impediment under the

Regulation 7 of the Bar Council Regulations read with Rule 5 of the Rules.

6. Heard learned counsel for the parties and perused the impugned endorsement/order.

7. The issue involved in this writ petition, namely, the student successfully completing the II year PUC Course privately whether is eligible for admission of 5 Years-B.A., LL.B. Degree Course, was the subject-matter of Writ Petition No.10458/2016 in Mr. Bhargava B.L., case. Considering the Regulation 7 of the Regulations which runs thus:-

7. Eligibility Criteria for Admission

(a) An applicant who has successfully completed Pre-University Course or Senior Secondary School course (" +2") or equivalent such as (11+1, "A" level in Senior School Leaving Certificate Course) from a recognised University of India or outside or from Senior Secondary Board or equivalent, constituted or recognised by the Union or by the State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the course.

and Rule 5 of the Bar Council of India Rules, which runs thus:-

Rule 5 Rules of Legal Education, 2008: Eligibility for admission of reads as under:

(a) .?.....

(b) Integrated Degree Program: An applicant who has successfully completed Senior Secondary School course (" +2") or equivalent (such as 11+1, "A" level in Senior School Leaving certificate course) from a recognised University of India or outside or from a Senior Secondary Board or equivalent, constituted and recognised by the Union or by a State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the program of the Centres of Legal Education to obtain the integrated degree in law with a degree in any other subject as the first degree from the University whose such a degree in law is recognised by the Bar Council of India for the purpose of enrolment.

Provided that applicants who have obtained +2 Higher Secondary Passing Certificate or First Degree Certificate after prosecuting studies in distance or correspondent method shall also be considered as eligible for admission in the Integrated Five Years-course or three years-LL.B. course, as the case may be.

Explanation: The applicants who have obtained 10+2 or graduation/post graduation through open Universities system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law courses,

the co-ordinate Bench of this Court has held thus:

"the provisions referred to above, nowhere make it mandatory that the Pre-University Course must be completed after regular studies in a college. The first proviso, in fact, permits a student who has prosecuted his studies in distance or correspondence method, to be eligible for admission. It is only those applicants who have obtained 10 + 2 certificate from Open University system, who are declared to be ineligible for admission of 5 Years-B.A., LL.B Course".

8. The petitioner in that case had not completed his II Year of PUC from Open University, but had completed it privately. Moreover, the petitioner was certified from the Department of Pre-University Education and the Certificate granted was recognised by the Government of Karnataka. Hence, it was held that such student would not come within the bar contained in the II Proviso mentioned in Rule 5 of Bar Council Rules.

9. In the case of Sudha Rani, the co-ordinate Bench of this Court at para 16 has held thus:-

"16. Explanation (2) of Rule 5 makes it clear that the applicant who has obtained 10+2 or graduation/post graduation through open universities system directly without having any basic qualification for prosecuting, such students are not eligible for admission in the law course. This makes it very clear that the qualification prescribed for three years as well as integrated law course, it is as per the basic qualification prescribed therein matters and the qualification obtained by open University or a private study, it is not a qualification for the purpose of consideration.

In para 17, it is further held that,

"while considering for three years and five years integrated course, explanation made clear that the applicants who have obtained 10+2 or graduation through open University system without having basic qualification are not eligible for admission to law course".

10. In the facts and circumstances of that case, the action on the part of the Bar Council of India and also Karnataka Law University in not admitting the students who have not satisfied the requirement of Explanation to Rule 5 was held to be just, sound and proper.

11. In view of the judgments referred to above, it can be held that the petitioner herein not having completed his II year of Pre-University Course from an Open University, but having completed the II year of Pre-University Course privately, being certified from the Department of Pre-University Education and certificate granted being recognised by the Government of Karnataka would not come within the bar contained in the II Proviso mentioned in Rule 5. Hence, the petitioner is eligible for admission to the 5 Years-B.A., LL.B Course in the light of the Regulations and Rules cited (supra). Hence, respondent No.1 is not justified in rejecting the case of the petitioner for admission to the said 5 Years-Course on

the ground that the petitioner had completed his II Year Pre-University Course in private/correspondence.

12. By virtue of the interim order passed by this Court, the petitioner is pursuing his 5 Years-B.A., LL.B Integrated Course. Hence, this Court further directs respondent No.1 to approve the admission of the petitioner to Five Years-B.A., LL.B. Course.

13. For the reasons aforesaid, the petition is allowed, quashing the endorsement/order at Annexure-G, dated 06.11.2014 issued by the first respondent.