
(2018) 03 OHC CK 0102
In the Orissa High Court
Case No : W.P.(C) No.3737 of 2018

Nikita Sharma

APPELLANT

Vs

Ravenshaw University and Ors.

RESPONDENT

Date of Decision : 21-03-2018

Acts Referred:

Citation : (2018) 03 OHC CK 0102

Hon'ble Judges : VINEET SARAN, C.J;DR. B.R. SARANGI

Bench : Division Bench

Advocate : Manoj Kumar Mohanty, M.R. Pradhan, M. Mohanty, T. Pradhan, Subir Palit, A. Mishra, A. Parija

Final Decision : Allowed

Judgement

Vineet Saran, CJ.

1. The petitioner-Nikita Sharma was admitted in Bachelor of Business Administration (BBA) course in the Ravenshaw University in the year 2013, which course was to conclude in the year 2016. She, thereafter in the year 2016, applied for admission in Master of Business Administration (MBA) course in the Ravenshaw University, for which she was provisionally selected for admission on 12.05.2016. On the same day, the petitioner deposited the requisite fees and took admission in MBA course. Since the result of the BBA final examination was not declared and the petitioner did not have the BBA certificate as on the date of admission i.e. 12.05.2016, she gave an undertaking to produce the Graduation (BBA) mark sheet as well as College Leaving Certificate (CLC), Conduct Certificate etc. later, which request was allowed. It was only thereafter that the requisite fees were accepted from her. The result of the BBA was subsequently published in which

the petitioner had failed in one paper. However, she was allowed to appear in one back paper through a special examination, which was held in July 2016 and the result of the said back paper was published in August

2016 in which the petitioner was declared pass. She pursued her study in MBA course and passed the 1st Semester examination in February 2017.

2. Then on 02.06.2017, mark sheet, provisional pass certificate, CLC and Conduct Certificate of the BBA course were granted by the Ravenshaw

University, which were all deposited by the petitioner with regard to her admission in MBA course. Then in August 2017, the petitioner passed 2nd

Semester of MBA examination. Thereafter on 22.11.2017, the Ravenshaw University required the petitioner to produce the original CLC, mark sheet,

Conduct Certificate etc. of the BBA examination by 27.11.2017, which the petitioner produced in original on the said date. Then in December 2017,

the petitioner was permitted to appear in 3rd Semester of MBA examination.

3. To the utter surprise of the petitioner, on 20.12.2017, she was issued with a show cause notice by the Chairman, Council of Deans, Ravenshaw

University, Cuttack mentioning that since she had cleared the project paper in December 2016 and had submitted the CLC and Conduct Certificate in

August 2017, it would mean that she did not have BBA degree at the time of admission in MBA course in July, 2016, and, as such, she was required

to explain as to why her admission to MBA course should not be cancelled for not having the BBA degree at the time of admission.

4. The petitioner submitted her explanation within the time granted i.e. on 02.01.2018, wherein she had categorically stated that she had informed the

Coordinator about the back paper in a practical subject at the time of MBA admission and gave an undertaking that she would submit the mark sheet,

CLC, Conduct Certificate etc. during the MBA course. It was further stated in her reply that since she had informed that she would submit the

requisite documents subsequently, which request was accepted and given the admission, and then she had actually submitted the requisite documents

while undergoing the MBA course, her case should be considered sympathetically so that her career would not be spoiled. Then on 21.03.2018, the

admission of the petitioner, as well as three other students has been cancelled, which is under challenge in this writ petition.

5. We have heard Shri M.K. Mohanty, learned counsel for the petitioner and Shri

S. Palit, learned counsel appearing for the Ravenshaw University

and perused the record. Pleadings between the parties have been exchanged and with consent of learned counsel for the parties, the writ petition is

being disposed of at this stage.

6. It is contended by learned counsel for the petitioner that the petitioner had disclosed all the facts at the time of admission in MBA course and the

opposite party-University had allowed her to submit the requisite documents subsequently during the MBA course and, in fact, as she had already

submitted all the necessary documents, the cancellation order is wholly unjustified. It is further submitted that cancellation order of the admission of

the petitioner has been passed without considering her explanation, which was given in response to the show cause notice dated 22.12.2017, and the

order dated 21.02.2018 cancelling her admission does not give any reason whatsoever, except mentioning the report of the Investigating Committee,

without furnishing any such report of the Investigating Committee to the petitioner or even filing the same along with the counter affidavit.

7. Today, Shri Palit, learned counsel for the University wanted to pass on a copy of the report of Investigating Committee, which admittedly was

submitted prior to issuance of the show cause notice dated 22.12.2017, but was neither filed with the counter affidavit nor given to the petitioner at any

stage.

8. Franz Schubert said- “Reason is nothing but analysis of belief.” In Black’s Law Dictionary, reason has been defined as a-

“A faculty of the mind by which it distinguishes truth from falsehood, good from evil, and which enables the possessor to deduce inferences from

facts or from propositions.” It means the faculty of rational thought rather than some abstract relationship between propositions and by this faculty, it

is meant the capacity to make correct inferences from propositions, to size up facts for what they are and what they imply, and to identify the best

means to some end, and, in general, to distinguish what we should believe from what we merely do believe.

9. In *Maneka Gandhi v. Union of India*, AIR 1978 SC 597, the apex Court held as follows:-

“the reasons, if disclosed, being open to judicial scrutiny for ascertaining their nexus with the order, the refusal to disclose the reasons would

equally be open to the scrutiny of the Court; or else, the wholesome power of a dispassionate judicial examination of executive orders could with

impunity be set at naught by an obdurate determination to suppress the reasons.â??

10. In *S.N. Mukherjee v. Union of India*, AIR 1990 SC 1984, the apex Court held that keeping in view the expanding horizon of the principles of

natural justice, the requirement to record reasons can be regarded as one of the principles of natural justice which governs exercise of power by

administrative authorities. Except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative

authority is required to record reasons for its decision.

11. Keeping in view the law discussed above and applying the same to the present context, we are of the opinion that when the order has been passed

on the basis of the report of the Investigating Committee, which was submitted prior to issuance of the show cause notice, the least that could have

been done by the University was to annex the copy of the report of the Investigating Committee along with the show cause notice, which has not been

done in the present case. The order cancelling the admission of the petitioner could have been passed only on the grounds stated in the show cause

notice, and that too after considering the reply of the petitioner.Â Â

12. In the present case, what we find is that the explanation required to be given by the petitioner in the show cause notice is not relating to the report

of the Investigating Committee but regarding non-submission of certain documents at the time of taking admission. The same has been properly

explained by the petitioner in her reply, which has not been considered in the order of cancellation, which has been passed on the basis of the alleged

reasons given in the report of the Investigating Committee, which are other than those in the show cause notice.

13. It is the settled principle of law that once reply to the show cause notice has been given, the authority concerned is required to pass an order only

after considering the reply so submitted. The application of mind by the authority while passing an order could be assessed only when the reply is

considered and dealt with in the final order passed by the authority, and in the absence of the same, it would be considered that the issuance of the

show cause notice is merely a formality, as reply filed is not considered or dealt

with in the final order. As such, the order of cancellation dated 21.02.2018, insofar as it relates to the petitioner, cannot be sustained in the eye of law, and is accordingly quashed.

Â 14. Â However, it is clear that the admission was granted to the petitioner without the petitioner having filed the necessary documents and the same was condoned by the Coordinator (or such other University authority) at the time of admission, which, according to Shri Palit, learned counsel for the University, could not have been granted. Be that as it may, the same cannot be held against the petitioner, as the Coordinator or the concerned authority had granted such exemption, and if the same was granted without there being any proper provision, it is for the University to take suitable action against the person concerned or the Coordinator who had condoned the shortcoming and permitted the petitioner to take admission without having filed certain documents at the time admission, but the petitioner cannot be blamed for the same. As such, the University is at liberty to proceed against the erring officials, in accordance with law, but the admission of the petitioner to the MBA course cannot be cancelled on such ground.

15. It is further made clear that that the fees for the 3rd and 4th Semesters of MBA course may be permitted to be deposited by the petitioner within ten days of the University making such demand. The writ petition is allowed to the extent indicated above. Â