
(1983) 09 SHI CK 0005

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 213 of 1983

Pradeep Satija and Another

APPELLANT

Vs

H.P. University

RESPONDENT

Date of Decision : 05-09-1983

Acts Referred:

Citation : (1983) 12 ILR HP 431

Hon'ble Judges : V.D. Misra, C.J;H.S. Thakur, J

Bench : Division Bench

Advocate : K.D. Sood, for the Appellant; Bhawani Singh, for the Respondent

Final Decision : Allowed

Judgement

H.S. Thakur, J.—The Petitioners have filed this writ petition praying that the Respondent (Himachal Pradesh University) be restrained from continuing the holding of M.B.A. 1st Semester, 1983 Entrance Examination including the group discussion and interview and from issuing the list of qualified candidates for personal interview. It is further prayed that the Respondent be directed not to grant admission in the said course in pursuant to the examination conducted on 31st July, 1983 onwards, and further that the Respondent be directed to hold fresh Entrance examination and also to allow the Petitioners to appear in the said Examination along with others by entertaining the applications received up to July 25, 1983. Some ancillary relief have also been claimed.

2. The relevant facts as stated in the writ petition may be stated in brief. The Petitioner No. 1 is stated to have qualified his B.Sc. Examination from Gurunanak Dev University securing 66% marks whereas Petitioner No. 2 qualified his B.Sc. (nonmedical) Examination from Kurukshetra University securing 67.16% marks. According to - the Petitioners, they read the advertisement issued by the Himachal Pradesh University (hereinafter referred to as the University) under the signatures of Dr. K.D. Gupta, Controller of Examinations, dated 1-7-1983, which appeared in the daily "Tribune" on 7th July, 1983, announcing that Entrance Test

for M.B.A. Examination for selection of candidates for 20 seats will be held on 31st July, 1983 at the University campus. It was mentioned in the advertisement that only those candidates will be allowed to sit in the examination whose application forms were received up to July 25, 1983. Out of 20 seats, 75% seats were "reserved for the candidates who had passed the qualifying examination from the institutions within the territorial jurisdiction of the University or from the H.P. University" and that the remaining 25% seats were open for all. Out of the above 20 seats, 4 seats were reserved for Scheduled Caste/Scheduled Tribe candidates in the ratio of 20% in each category. The written examination was advertised to be held on 31st July, 1983 and the candidates qualifying for personal interview were likely to be announced by 1st August, 1983, where after they were to take group discussions and personal interviews on 2nd and 3rd August, 1983. The candidates were asked to collect their admit cards from the University-counter on 29th and 30th July, 1983 between 11.00 A.M. and 4.00 P.M. and also to check their seating plan on 30th July, 1983. A copy of the advertisement is Annexure P. 1.

3. The Petitioner No. 1 is stated to have applied for competing in the Entrance Examination by complying with all necessary formalities and paying charges and submitted his application form to the University on 23rd July, 1983. His form is stated to have been duly entertained. The Petitioner No. 2 is stated to have sent his application form duly filled in after having complied with all necessary formalities, through registered post on 11th July, 1983. The application is stated to have been duly entertained by the University. The Petitioners are stated to have come to the University on 30th July, 1983 at about 10.30 A.M. to get their admit cards. The Petitioner No. 2 was handed over a letter dated 28th July, 1983 wherein it was mentioned that since the application form had been received after the prescribed date, that is, 20th June, 1983, he could not be considered. Copy of the letter is Annexure P. 2. The Petitioner No. 1 is stated to have not been given any rejection slip but was refused admit card. This Petitioner is stated to have approached the Head of the Department, Dean of Studies and also went to the office of Shri K.D. Gupta, Controller of Examinations for issuing him the admit card. Each of them is stated to have evaded the matter. The Petitioner No. 2 is stated to have met the Head of the Department in this behalf. No admit card was, however, issued to him as well. The Petitioners are stated to have been told that there was an error in issuing the advertisement (Annexure P. 1) and that since their applications were received after 20th June, 1983, the same could not be entertained. According to the Petitioners, several other candidates were also similarly not issued admit cards though they had come for taking Entrance Examination from distant places spending time and money. The Petitioners are further stated to have met the Vice-Chancellor in the morning of 31st July, 1983 and requested him to issue them admit cards. They also submitted their representation (Annexure P. 3). The Vice-Chancellor, however, is stated to have informed the Petitioners that he could not do anything in the matter and that they should contact the Dean of Studies. Since the Petitioners could not contact

the Dean of Studies, they sent copies of the representation to him as also to the Controller of Examinations and Head of the Department.

4. In the reply filed on behalf of the Respondent, it has been stated that some misunderstanding had been created in the minds of the Petitioners due to the notification (Annexure P. 1) dated 1st July, 1983 which appeared in the daily "Tribune" dated 7th July, 1983. The said notification according to the Respondent, pertains to Entrance Test for admission to M.B.A. Course 1st Semester 1983 and not to the inviting of the applications, which was advertised by the Dean of Studies. It is pointed out that the said notification inadvertently contained the date 25th July, 1983 instead of 20th June, 1983. According to the Respondent, the mistake is a bonafide one regarding the date and the University took immediate steps to rectify the error by issuing a corrigendum through telegram on 9th July, 1983. The said corrigendum is stated to have been published by the respective news-papers on 12th July, 1983. According to the Respondent, Petitioner No. 1 having filed his application on 23rd July, 1983, that is eleven days after the issuance of the corrigendum, cannot claim any right for admission, and similarly Petitioner No. 2 having sent his application form on 11th July, 1983 and received by the Respondent after 12th July, 1983, cannot claim any benefit of the earlier notification as the same stood superseded by the corrigendum that appeared on 12th July, 1983. It has been repeated in the reply that the Petitioners cannot take the advantage of the inadvertent error in the date which was 25th July in the advertisement. It is pointed out that the said notification was for Entrance Test and not for submitting application forms. In reply to various paras, the Respondent has repeated in an argumentative form that the last date for receiving the application forms was 20th June, 1983 and since the application forms of the Petitioners besides others were not received by 20th June, 1983, the same could not be entertained.

5. This Court while admitting the writ petition on August 1, 1983 noted the contentions of the learned Counsel for the Respondent. The same may be reproduced for a ready reference:

"M. Bhawani Singh informs us that instead of 25th July, 1983 being the last date for receipt of the application forms the date should have been 20th June, 1983. It is also stated that though Dr. K.D. Gupta, Controller of Examinations, had the authority to issue this Notification, he did not know that the Dean of Faculty of Arts had issued another advertisement inviting applications for M.B.A. Course and had given 20th June, 1983 as the last date of the receipt of applications. It is submitted that corrigendum was issued on 12th July, 1983 by Dr. K.D. Gupta. This corrigendum informed the candidates that the last date for the receipt of application forms for M.B.A. Course was 20th June, 1983 and not 25th July, 1983 as wrongly published."

It was further observed:

"We are not at the moment satisfied about the alleged mistake made by Dr.

Gupta. Since the advertisement in question was dated 1st July, 1983, though published on 7th July, 1983 in the Tribune it could not lay down any date prior to the date of publication of this advertisement. However, we do not say anything further on this matter since it shall be decided after the replies have been filed."

6. On CMP No. 1559/83 filed by the Petitioners along with the writ petition, a direction was issued by this Court that the Respondents shall allow the Petitioners to take part in the subsequent examinations/viva voce etc. The Respondents were further directed to keep two seats vacant in the Petitioners' quota till the decision of the petition.

7. The main contention of the Respondent is that the application forms of the Petitioners were received after 20th June, 1983 and on account of the delay, the same could not be entertained. It is pointed out that a corrigendum (Annexure P. 4) was issued to the effect that the last date for receipt of application forms for MBA Course was 20th June, 1983 and not 25th July/ 1983 as wrongly published. It was indicated that forms received up to 20th June shall be only considered for admission test. The Respondent with the reply has annexed Annexures Rule 1 to Rule 5. Annexure Rule 1 is an admission notice. No date of this notice is indicated. The said notice is, however, stated to have been published in "The Indian Express" on March 31, 1983 and in "The Tribune" on April 1, 1983. This notice, inter alia, states that the application forms for appearing in the Competitive Examination to the MBA Programme for the Academic Year 1983-84 must reach the Department of Commerce and Business Administration by 31st May, 1983. Annexure Rule 2, which is termed as admission notice: Addendum, while referring to the advertisement contained in Annexure Rule 1, it is notified that the last date for the receipt of application forms for admission to the said course has been extended to June 20, 1983. Annexure Rule 3 is also termed as admission notice 1983-84. This notice, however, does not pertain to the MBA Course. For the classes reflected in the said notice, the last date for submission of applications/admission forms has been given July 14, 1983. Annexure Rule 4 is admission notice/Addendum issued by the Dean of Studies (Shri K.C. Malhotra). The same reads as under:

"With reference to our Advertisement No. 474 published in The Indian Express, The Tribune, The Hindustan Times and Punjab Kesari between 13-15 June, 1983, it is notified that the last date for receipt of admission forms for various courses published in that Admission Notice has been extended to 21-7-1983."

Annexure Rule 5 is dated 23rd July, 1983 and is termed as admission notice 1983-84 schedule thereof. It is mentioned in the said notice that the last date for the receipt of admission forms for various courses except MBA Course has been extended to 25-7-1983. It is pointed out therein that admission with late fee can be allowed up to 5-8-1983.

8. A perusal of Annexure P. 1 shows that for admission to MBA Course 1st Semester 1983 the Examination is open only to those candidates whose

application forms have been received in the University up to 25th July, 1983. Annexure P. 4 corrigendum, whereby the last date for the receipt of application forms for MBA Course was 20th June, 1983 and not 25th July, 1983, appeared in the newspaper on 12th July, 1983, is admitted as correct by the Respondent. Admittedly, this corrigendum appeared in the newspaper after the last date for filing of admission forms had expired.

9. The confusion among the various functionaries of the University is writ large in this case. No doubt the admission notice Annexure Rule 1 invited applications by 31st May, 1983 which was later on extended to 20th June, 1983 (Annexure Rule 2). Both these were issued by Shri K.G. Malhotra, Dean of Studies. As already stated, Dr. K.D. Gupta, Controller of Examinations, was also authorised to issue notices. He issued the notice Annexure P/1. Though it is true that it was an examination notice, yet it gives more details which are not found in the notice Annexure R/1. It gives the date of receipt of application forms as 25th July, 1983. An attempt was made by Mr. Bhawani Singh to show that the confusion of giving the date of 25th July, 1983 arose because Dr. K.D. Gupta seems to have taken this date from the "Admission Notice: Addendum" (Annexure Rule 4) extending the date of receipt of admission application forms up to 21st July, 1983 in respect of other courses. We are not satisfied. Even if there was a confusion in the minds of these two responsible persons while issuing the notices, the advantage of this confusion has to be given to the Petitioners and not to the University.

10. It may be pointed out that the reputation and prestige of a University depends on various factors. Normally, students join different Universities after planning their career. The Petitioners relying on the advertisement (Annexure P/1) submitted their admission forms and also complied with other necessary formalities. They came to the University at Shimla from distant places spending their time and money under the belief that they will be allowed to take the test. However, to their utter disgust and despair, they were not allowed to participate. It has been asserted by them that they approached the authorities of the University including the Vice-Chancellor, and also made representations but without any fruitful result.

11. The aforesaid facts and circumstances depict rather a sad state of affairs. The Petitioners had ultimately no other alternative but to knock at the door of justice and it is how the matter has come before us. The stand taken by the Respondent is manifestly unfair and inequitable and depicts a picture of carelessness and negligence. The University has not furnished a reasonable explanation as to what were the circumstances under which the date for filing the admission forms had to be curtailed. In the absence of any plausible explanation, we are compelled to say that the University has deprived the Petitioners of their valuable right of competing in the test for admission to the above course.

12. It is pointed out by the learned Counsel for the University that 18 students

out of 20 have already been admitted to the said course whereas two seats remain to be filled up, under the order of this Court.

13. The learned Counsel for the Petitioners has also referred to the Hand Book of Information (mainly relating to teaching departments) 1983-84. In the said Hand Book, Commerce and Business Administration is one of the Teaching Departments of the University. In 2.1 of the said Hand Book under the heading "Admission, Vacation and other Schedules for 1983-84" the programme is indicated as under:

- "1. Last date receipt of admission forms 14-7-1983.
2. Admission with late fee -15-7-1983 to 20-7-1983.
3. Admission with late fee of Rs. 5/-21-7-1983 to 25-7-1983.
4. ..."

An admission form is also attached to this Hand Book. Accordingly, the Petitioners could be admitted with late fee up to 25th July, 1983. This Hand Book has to be treated as an authentic publication of the University. It is nowhere indicated in the said Hand Book that the application forms for admission to MBA Course had to be submitted by 20th June, 1983. As such, it is not known how this date of 20th June, 1983 has been worked out as the last date for the receipt of the admission forms.

14. No other candidate except for the aforesaid Petitioners has challenged the admission of 18 students to the above course. As such, it is not necessary to quash the admission of those 18 students.

15. The only question which now survives for determination is as to what relief can be given to the Petitioners. The Petitioners prayed for quashing the entire Entrance Examination to the above course. It is not proper at this stage to quash the admission of the above 18 students. At the same time, the Petitioners cannot also be made to suffer due to the carelessness and negligence of the functionaries of the University.

16. The upshot of the above discussion is that the writ petition is allowed only to the extent that the University shall allow the Petitioners to take Entrance Test for admission to the MBA Course 1st Semester 1983-84. To achieve this end, the University is directed to take test of the Petitioners including interviews, discussion etc., for admission to MBA 1st Semester Course 1983-84 and in case the Petitioners or any one of them is found eligible, for admission on comparative basis, they be given admission to the said course, after all the formalities are complied with. In case the Petitioners or any one of them is not found eligible, then a student/students who have qualified the Entrance Test already held and found eligible be admitted to the said course.

17. The writ petition is accordingly allowed with costs.