
(1986) 08 MP CK 0009

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 42 of 1985

Prakashchandra S. Verma and others

APPELLANT

Vs

Vikram University, Ujjain and others

RESPONDENT

Date of Decision : 13-08-1986

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973 — Section 6

Citation : (1986) J LJ 791 : (1987) MPLJ 36

Hon'ble Judges : R.K. Verma, J; G.G. Sohani, J

Bench : Division Bench

Advocate : B.L. Pavecha, for the Appellant; L.P. Bhargava, for the Respondent

Final Decision : Allowed

Judgement

R.K. Verma, J.

This order will also dispose of five other petitions, namely M.P. No. 38/85 (Sunilkumar & others vs. Vikram University and others), M.P. No. 32/86 (Dilipsingh vs. Vikram University and others), M.P. No. 76/86 (Sawantsingh and others vs. Vikram University and others), 31/86 (Panchanan vs. Vikram University and others) and M.P. No. 71/76 (Rajendra and another vs. Vikram University). The petitioners in the first three of the five petitions passed Visharad (Madhyama) Examination of 1983 and claimed admission to B.A. Part II Examination of 1985 1986 and 1986 respectively of the respondent-University while the petitioners in the last two petitions passed Sahitya Ratna (Uttama) Examination of 1983 and claimed admission to M.A. (Previous) Examination of 1986 conducted by the respondent-University. In all these petitions, the petitioners have challenged the action of the respondent-University in refusing them admission to the appropriate examinations of 1985 and 1986 conducted by the University.

This is a petition under Articles 226 and 227 of the Constitution of India whereby

the petitioners have sought quashing of the Circular No. 7443 dated 26-9-1984 (Annexure-C) issued by the Registrar-Respondent No. 3 as also the Resolution No. 65 dated 5-1-1985 (Annexure-R-1) passed by the Executive Council of the University-Respondent No. 1 and the consequent circular letter dated 28-1-1985 (Annexure-R-3) issued by the respondent No. 3.

The petitioners passed Visharad (Madhyama) Examination conducted by Hindi Sahitya Sammelan, Prayag in the year 1983. It is not disputed that the Visharad

(Madhyama) Examinations conducted by Hindi Sahitya Sammelan, Prayag, have been recognised ever since 1967 by the respondent-University as qualifying examination for admission to B.A. Part II Examination conducted by the University. Similarly, Sahitya Ratna (Uttama) Examination has been recognised ever since 1967 as qualifying examination for admission to M.A. (Previous) examination of the respondent-University. Annexure-B to the petition is the list published by the respondent University recognising the equivalence of certain examinations and degree including Madhyama and Uttama Examinations conducted by the Hindi Sahitya Sammelan for the purposes of eligibility and qualification for admission to certain examinations conducted by the University, as specified in the list.

By a Circular memo dated 26-9-1984 (Annexure-C) the Registrar-respondent No. 3 intimated the Principals of all the Colleges affiliated to the Vikram University that the recognition of examination conducted by the Hindi Sahitya Sammelan should be given admission and they should also be not allowed to appear as a non-collegiate candidate at any of the university examinations. The circular issued by the Registrar appears to have been ratified by the impugned Resolution dated 5-1-1985 of the Executive Council passed in pursuance of the recommendation made by the Standing Committee of the Academic Council in its Resolution dated 19-12-1984 (Annexure-R-2). The petitioners were prevented from appearing at the B.A. Part II examination on account of sudden decision of the University authorities to derecognise the Examination conducted by the Hindi Sahitya Sammelan, Prayag as aforesaid. Hence, they filed this petition. By an interim order dated 11-1-1985, the respondents were directed to provisionally accept the Examination forms of the petitioners to appear as non-collegiate students at B.A. Part II Examination, 1985 conducted by the University.

It is the contention of the petitioners in this petition that the resolutions of the Academic Council and the Executive Council cannot validly debar those including the petitioners who have passed the Visharad (Madhyama) Examination before 1984 from appearing at the B.A. Part II Examination of the University. In order to appreciate this contention, it is necessary to state here the said Resolutions which are reproduced hereunder :-

Resolution No. 8 passed by the Standing Committee of the Academic Council in its meeting held on 19-12-1984 : -

Resolution No. 66 passed by the Executive Council in its meeting held on

5-1-1985:

There is, however, no mention in the Resolutions aforesaid as also no averment in the return as to from which year the examinations conducted by the Hindi Sahitya Sammelan have come to be vitiated because of the split in Hindi Sahitya Sammelan into two rival groups. It is contended on behalf of the petitioners that the impugned Resolutions of the Academic Council and the Executive Council of the respondent University cannot be read so as to have retrospective operation and thereby adversely affect the petitioner who passed Visharad (Madhyama) Examination in 1983. In the absence of naming any particular year since when the Examinations conducted by Hindi Sahitya Sammelan have come to be affected because of the split in the Hindi Sahitya Sammelan aforesaid, the Resolutions derecognising the Visharad and Sahitya Ratna Examinations passed by the Academic Council and the Executive Council in the year 1985 ought to be construed to apply prospectively to the examinations which may be conducted in future under the name and style of Hindi Sahitya Sammelan. As is clear from a reading of the aforesaid Resolutions, the decision to derecognise the examination of the Hindi Sahitya Sammelan has been taken apparently because of the difficulty in identifying as to which of the two groups holding the examinations truly represents the Sammelan.

Having heard the learned counsel for the parties, we have come to the conclusion that this petition must be allowed. The conclusion reached by the Standing Committee of the Academic Council which is accepted by the Executive Council, is based on a definite cause which came to exist due to a split in Hindi Sahitya Sammelan into two rival groups and the consequent difficulty in ascertaining the authentic body which truly represents the Hindi Sahitya Sammelan on the date of the Resolution passed by the Academic Council. But in the absence of any categorical averment in the return and non-mention in the Resolution about the definite year since when the examinations of the Hindi Sahitya Sammelan came to be vitiated because of the internal dispute in the alleged two rival groups as aforesaid, it would be unreasonable to extend operation of the Resolution retrospectively so as to affect the candidates who passed Madhyama and Uttama Examinations conducted by the Hindi Sahitya Sammelan in the past years i.e. before 1985, when the same were recognised by the Respondent-University. If a different meaning is attached to the Resolution so as to affect the Madhyama and Uttama Examinations held in all the past years, as is the case of the respondents, it would amount to withdrawing the recognition by the respondent-University to the examinations, which has all along been granted until the year 1985 and it would affect even those who validly obtained the degrees from the respondent University pursuant to passing the Madhyama or Uttama Examination. Further, the action of the University in derecognising the Madhyama and Uttama Examinations which were validly held in the past, would amount to devaluing the certificates of successful candidates at those examinations unreasonably and without justification.

Learned counsel for the petitioners has contended that the action of the respondent-University in seeking to debar the petitioners by giving retrospective effect to the Resolution of the Executive Council (Annexure-R-1) does not meet the test of reason and relevance. Learned counsel cited *The Gujarat State Financial Corporation vs. M/s Lotus Hotels Pvt. Ltd.* (AIR 1983 SC 848) and *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*, for the proposition that the respondents cannot act arbitrarily and its action must be in conformity with some principles which meet the test of reason and relevance.

Under the Madhya Pradesh Vishwa Vidyalaya Adhiniyam, 1973, the respondent-University has power to determine standards for admission into the University as per clause 35 of section 6 of the Adhiniyam which reads as under :-

Subject to the provisions of this Act, the University shall have the following powers, namely :

(35) to determine standards for admission into the University, which may include examination, evaluation or any other method of testing;

The Academic Council of the University has the power to exercise general supervision over the academic policies of the University as provided in clause (i) of section 26(1). The Standing Committee appointed by the Academic Council u/s 26(2) of the Act has the duty to render advice on equivalence of examinations in consultation with the Faculty concerned and such matters as may be referred to it by the Academic Council, the Executive Council or the Kulpati under Statute No. 7, which deals with Constitutional powers and functions of the said Standing Committee.

In the instant case, the question of suspending or terminating the recognition so long granted by the University to the Madhyama (Visharad) and Uttama (Sahitya Ratna) Examinations conducted by the Hindi Sahitya Sammelan, Prayag was considered by the Standing Committee of the Academic Council, in its meeting held on 19-12-1984. As is clear from the Resolution No. 8 passed by the Standing Committee of the Academic Council as reproduced hereinabove, it was made known in the meeting that the Hindi Sahitya Sammelan had been split up into two groups each of which was claiming to be genuine body and a suit was pending in the Court for resolving the dispute between the two groups in that regard. It was also pointed out that there were complaints as to the reliability and genuineness about the mark-sheets and the certificates issued as a result of the examinations held by either of the two groups of the Hindi Sahitya Sammelan. In such a situation, the Standing Committee decided to recommend termination of recognition to the Madhyama and Uttama Examinations of the Hindi Sahitya;. Sammelan. The Executive Council by its Resolution No. 65 dated 5-1-1985 which has been extracted hereinabove, has merely put its seal of approval on the recommendation of the Standing Committee of the Academic Council.

It is true that the academic matters regarding equivalence of University degree do not yield easily to judicial determination and Courts should hesitate to express a definite opinion in such matters. It is also true that it was for the University to decide whether to recognise a particular examination as equivalent to a particular degree or not, because the University had a right to prescribe its own standards. But in the present case, the question is not one of determining equivalence of standard of Madhyama and Uttama Examinations by the Court, but one of ascertaining what the Standing Committee of the Academic Council has considered in its Resolution and whether the approved equivalence of standard of Madhyama and Uttama Examinations conducted prior to the year 1985 has come in doubt and is sought to be withdrawn. It is apparent from the reading of the Resolution of the Academic Council that the Madhyama and Uttama Examinations currently being held by two different groups, each claiming to represent the Hindi Sahitya Sammelan have lost the credibility as to the academic standard and for that matter the equivalence of the standard so far recognised by the respondent-University. Judged by the test of relevance and reason the resolution of the Academic Council cannot be read to derecognise the equivalence of standard of Uttama (Sahitya Ratna) and Madhyama (Visharad) Examinations validly conducted in the past years by an authentic body the Hindi Sahitya Sammelan when its identity was not in doubt as is the case in current years.

Learned counsel for the respondents, however, tried to distinguish the cases of those candidates who had taken admission in Colleges affiliated to the University from that of the petitioners, who are the non-collegiate candidates and stated that the University had considered the case of a collegiate student who had already taken admission on the basis of having passed Madhyama (Visharad) examination of the year 1983 and treated him eligible because having been given admission by the College authorities he could be said to have legitimate expectation that he would be permitted by the University to take the examination. But while permitting such a candidate to take examination and seeking to debar the petitioners who have also passed the Madhyama Examination of 1983, from taking the same examination the respondents would be adopting two different standards in the matter of according recognition to Madhyama Examination of 1983 for the purposes of eligibility to appear in the University Examination. The action of the University in relation to the petitioners would be clearly discriminatory and violative of Article 14 of the Constitution of India.

Learned counsel for the respondents cited a decision of Gwalior Bench of this Court in Gopal Krishna Sharma and others vs. The Jiwaji University, Gwalior and another (M.P. No. 488/85 disposed of on 7-11-1985) in support of his submission that the petitioners are not entitled to maintain this petition. On a perusal of the judgment, we find that the decision is distinguishable inasmuch as the main contention raised in that petition was that the respondent University cannot derecognise the examination conducted by Hindi Sahitya Sammelan, Prayag

without the previous sanction of the Madhya Pradesh Uchcha Shiksha Anudan Ayog. Here the question is one of construing the resolution of the Academic Council of the Respondent University and giving it a proper effect for its application to the candidates who passed the examinations of Hindi Sahitya Sammelan prior to 1985 when no good reasons seem to exist warranting derecognition of those examinations.

In view of the discussion aforesaid, the Resolution of the Academic Council and the consequent Resolution of the Executive Council, cannot in our opinion, be construed to have retrospective effect in its application so as to affect the petitioners and treat them disqualified when admittedly they were qualified and eligible to appear in B.A. Part II Examination after passing the Madhyama Examination in the year 1983. Similarly the petitioners in connected petitions who have passed Uttama Examination in the year 1983 cannot be treated as disqualified or ineligible to appear in M.A. (Previous) Examination.

Consequently, this petition succeeds and is hereby allowed. The action of the respondents in refusing admission to the petitioners to appear at the B.A. Part II and M. A. (Previous) Examinations conducted by the respondent-University cannot be sustained in law. It is accordingly quashed. The petitioners who were allowed to appear at the University Examination provisionally by an interim order of this Court pending decision of this petition, are declared eligible to appear at the examination taken by them. The results of the petitioners in the Examinations taken by them, if withheld, shall now be declared by the University respondent. There shall, however, be no order as to costs. The outstanding amount of security deposit, if any, shall be refunded to the petitioners, after verification.