

(2016) 10 KAR CK 0031
In the Karnataka High Court
Case No : W.P. No. 206192 of 2015 (EDN-AD)

Prasanna Mallikarjun Balegowda

APPELLANT

Vs

Principal Seth Shankarlal Law College

RESPONDENT

Date of Decision : 04-10-2016

Acts Referred:

Advocates Act, 1961 — Section 24, Section 49, Section 7
Constitution of India, 1950 — Article 226

Citation : (2017) 1 AirKarR 175

Hon'ble Judges : B.S. Patil, J.

Bench : Single Bench

Advocate : Sri. Rajesh Doddamani, Advocate, for the Petitioner; Sri. Shivakumar Malipatil, Advocate, for the Respondent No.2; Sri. Ashok S. Kinagi, Advocate, for the Respondent No.1

Final Decision : Allowed

Judgement

B.S. Patil, J. - Question that falls for consideration in this writ petition is with regard to eligibility of petitioner to prosecute his studies in 3 years law course.

2. By Annexure-F communication addressed by the respondent - Karnataka State Law University to the Principal, Seth Shankarlal Law College, Kalaburagi, it has been informed that petitioner's admission for the 3 years law course was not approved as he had passed 2 years Pre-University Course either as a private student or through National Institute of Open Schooling (NIOS).

3. In the instant case, it is not in dispute that petitioner has studied standard 1 to 10 as a regular student and has secured S.S.L.C. marks card issued by the Karnataka Secondary Education Examination Board. It is also not in dispute that he has studied +2 (PUC) as a correspondence course and after passing +2 correspondence course, petitioner has studied "first degree" in Bachelor of Commerce from Gulbarga University. After studying 3 years degree course, he has obtained a degree certificate issued from Gulbarga University during the year 2014.

4. Petitioner has been admitted to the 1st respondent - College for the academic year 2015-16 to pursue 3 year law course. The College has forwarded his name along with list of admitted students for approval to the University. In reply, University has issued the impugned communication - Annexure-F refusing to approve the admission of petitioner. In this background, petitioner is before this Court.

5. Learned counsel for petitioner contends that as per Bar Council of India Rules (for short, "the Rules") pertaining to standards of professional legal education contained in Chapter - II, eligibility for admission to 3 years law course has been stipulated in Rule 5 and petitioner satisfies the requirement stated in Rule 5. He, therefore, urges that impugned communication - Annexure-F refusing to approve the admission of petitioner is illegal and contrary to Rule 5 of the Rules.

6. Respondent - University has filed statement of objections. It is contended by the University that as petitioner had completed his PUC as a private candidate from National Institute of Open Schooling and had not attended PUC course as a regular student, in terms of the Rules framed by Bar Council of India which stipulated that basic qualification possessed by the candidate must be a regular one, petitioner was not eligible for admission to 3 years law course.

7. Rule 5 of the Rules reads as under :

"5. Eligibility for admission - (a) Three Year Law Degree Course: An applicant who has graduated in any discipline of knowledge from a University established by an Act of Parliament or by a State Legislature or an equivalent national institution recognised as a Deemed to be University or foreign University recognised as equivalent to the status of an Indian university by an authority competent to declare equivalence, may apply for a three years" degree program in law leading to conferment of LL.B. degree on successful completion of the regular program conducted by a University whose degree in law is recognised by the Bar Council of India for the purpose of enrolment.

(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 or 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 Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondence 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."

8. A careful perusal of Rule 5(a) & (b) along with the proviso and the explanation appended thereto would make it clear that Rule 5(a) stipulates that a candidate graduated in any discipline of knowledge from University established by an Act of Parliament or by a State Legislature would be eligible to apply for 3 year law degree course.

9. Rule 5(b) stipulates that a candidate who has completed +2 (PUC) or equivalent examination from a recognised University will be eligible for being admitted to 5 year law course to obtain integrated degree in law with degree in other subject as the first degree from the University. The proviso states that an applicant who has obtained +2 higher secondary pass certificate or first degree certificate after prosecuting studies in distance or correspondence method will also be eligible for admission in the integrated 5 years law course or 3 years law course. Effect of the proviso is that if a candidate has completed SSLC/10th standard as a regular students, but has passed +2 (PUC) by studying in distance or correspondence method, he shall also be considered eligible for admission to the integrated 5 year law course. As regards the student who has prosecuted and obtained first degree certificate by way of distance or correspondence method, he shall also be considered as eligible for admission for 3 year law course. But, there is an explanation appended to Section 5(1) (b) which states that those applicants who have obtained 10 + 2 or graduation/post graduation through Open University system directly without having any basic qualification for prosecuting such studies are not eligible for admission to law course.

10. Effect of the explanation is that if a candidate has directly obtained 10 + 2 through Open University system without undergoing regular studies from standard 1 to 10, he shall not be entitled to be considered for admission for 5 year integrated law course. Similarly, a candidate who has obtained graduation/post graduation through Open University System directly without having any basic qualification for prosecuting such studies in graduation/post graduation through Open University will not be eligible for admission in the law course.

11. In the present case, petitioner has not studied his graduation through Open University or by way of correspondence course. He has studied graduation and obtained degree in Bachelor of Commerce as a regular student from Gulbarga University. Therefore, explanation appended to Rule 5(b) has no application to the petitioner.

12. As per Rule 5(a), petitioner, having graduated in a discipline of knowledge i.e., Bachelor of Commerce from Gulbarga University which is established by an Act of the State Legislature, he is entitled to apply for 3 year law course leading

to conferment of LL.B. degree on successful completion of regular program, which degree is recognised by the Bar Council of India for the purpose of enrolment. Therefore, action of respondent - University in not approving the admission of petitioner is illegal and against the provisions contained in Rule 5 of the Rules.

13. Hence, this writ petition is allowed. Impugned communication - Annexure-F insofar as it pertains to petitioner is set aside. A direction is issued to respondent - University to approve the admission of the petitioner for the 3 years law course in the 1st respondent - College and consequently, announce the result of 2nd semester examination, which has been withheld, expeditiously.