

(2000) 05 RAJ CK 0010

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 275 of 2000

Rahul Madan

APPELLANT

Vs

Vice Chancellor, J.N.V. University and Others

RESPONDENT

Date of Decision : 15-05-2000

Acts Referred:

Citation : (2000) 2 WLN 548

Hon'ble Judges : Sunil Kumar Garg, J;Rajesh Balia, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rajesh Balia, J.—Heard learned Counsel for the parties.

2. The appellant has filed this petition for seeking mandams against the respondent Jai Narain Vyas University for permitting him to change stream of his studies from Mining Engineering to Mechanical Engineering from II Year of the four years integrated B.E. Course.

3. The learned Single Judge has rejected the petition filed by the appellant even without calling upon the respondent to file reply following the decision rendered in Writ Petition No. 334/2000 Vishal Chopra v. Jai Narain Vyas University, decided on 8th March, 2000. We have permitted learned Counsel for the University appearing in appeal to file a reply to the writ petition. In the reply affidavit, the stand taken is that as per the rules framed by the Academic Council of respondent University regarding change of branch, the change of branch of II Year is permissible within limited sphere and such change should not result in reducing the total strength of students in the II Year below 80% of the sanctioned strength because of the out going number of the students from the stream nor it should result in exceeding 110% of the sanctioned strength of the other stream by incoming students by opting to change their branch. Annexure R/2 was placed on record disclosing the decision of the respondents concerning the change of branch in the II Year B.E. of the 4 years integrated course. In

consonance with that provision, it has further been stated in the affidavit that as per the aforesaid rules, the number of students in Mechanical Branch to which change is sought for the Session 1999-2000 cannot be more than 46 and number of students from Mining Branch from which change is sought cannot be less than 23 and any further transfer from Mining Branch to the Mechanical Branch would violate both the limits namely the upper limit of the students to be admitted in the Mechanical Branch and the lower limit of the students to be retained in the running Branch. It has also been pointed out in the reply affidavit that the options for permitting change of branch has been considered strictly in accordance with the merit of the students as per the marks obtained in the I year B.E. The last option accepted in the Mining Branch for change over to another branch was of Dheeraj Sharma who had secured 880 marks in B.E. 1st Year while the present petitioner-appellant, even after evaluation of his marks, has secured only 840 marks, therefore, there is no discrimination on the basis of merit obtained by the students belonging to the Mining stream, in considering options for change.

4. While these facts have not been disputed, it has been urged by Mr. Vyas, learned Counsel for the appellant, that in B.E. First Year there is common syllabi and a person securing less marks than the petitioner, who was a student of Civil Engineering Branch, has been permitted to change over from Civil Engineering to another branch but the petitioner, who has secured more marks than him has not been permitted to change his branch. This has resulted in branch of merit rule in permitting the exercise of change of branch in Second Year B.E. This contention, in our opinion, is founded on comparing the two in comparables who are from different streams.

5. In 4 Year Degree Engineering Course, admission to particular branch is determined at the time of admission in 1st Year notwithstanding that the syllabi in the First Year B.E. is common to all the branches. The question of changing of the branch in the Second Year arises only because the students who have already been assigned to different branches in the First Year want to prosecute their further studies in the branch to which they have not been admitted. This makes abundantly clear that an option for change from one branch to another branch operates only amongst the students of a particular branch and cannot be compared with the students of other branch for the purpose of finding interse merit for operating the rule of merit within the permissible maximum limit of transfers from any particular branch. It is only the students desirous of making a change from one branch, their interse merit is taken into account for the purpose of accepting their options in the order of merit to effect change over. The merit rule has not been violated. Limits as to sanctioned strength of particular branch also operates within which only the options can be given effect to by the respondents. In view of the categorical submissions made in the reply that transfer of the petitioner from Mining Branch to the Mechanical Branch would disturb the equilibrium in both the branches, we are of the opinion that there is no arbitrary denial of the option for the change over by the appellant for the

Academic Sessions 1999-2000. The petition has, therefore, rightly been dismissed. Consequently, the appeal also fails.

6. Before parting with the case, we may notice one request made by the learned Counsel for the appellant that he is prepared to forego the examinations of the II Year B.E. under taken by him and is willing to give fresh option for the ensuing sessions. We do not express any opinion on such a claim laid by the appellant. The application for exercise of option, if any, made by the appellant, has to be decided by the University in accordance with the rules governing the change from one branch to another branch in the II Year B.E. There shall be no order as to costs.