
(2000) 07 AHC CK 0134

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 28926 of 1998

Rajendra Krishna Yadav and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 10-07-2000

Acts Referred:

All India Council for Technical Education Act, 1987 — Section 23

Citation : (2000) 3 UPLBEC 2117

Hon'ble Judges : I.M. Quddusi, J

Bench : Single Bench

Advocate : H.S.N. Tripathi and P.S. Tripathi, for the Appellant; Ramesh Upadhaya, S.N. Upadhya and S.C., for the Respondent

Final Decision : Disposed Of

Judgement

I.M. Quddusi, J.—This writ petition has been heard alongwith similar other writ petitions but since the course for which the petitioners of this writ petition had applied are different, they are being disposed of separately, although hearing in those writ petitions were made jointly.

2. Heard learned Counsel for the petitioners Sri H.S.N. Tripathi for the petitioners Sri Ramesh Upadhyay and learned Standing Counsel for the respondents.

3. The brief facts of the case are that applicants were invited through advertisement published in the daily newspaper Dainik Jagran dated 25-7-98 for direct admission in B.E./B. Tech and B. Arch for different branches of Government and Private Engineering Colleges of U.P. The requirement for the course was Diploma in any branch of Engineering having 10 + 2 Examination with Physics, Chemistry and Mathematics of first year B.E./B. Tech/B. Arch. For this purpose a combined Entrance examination was conducted by the Motilal Nehru Regional Engineering College, Allahabad. All the petitioners appeared in the examination held on 9-8-98. The result of the examination was declared and the name of all the petitioners find place in the select list at various places. But

they were denied admission. Being aggrieved they filed the above mentioned writ petitions.

4. In the counter-affidavit, it has been stated that exercise of powers conferred by Section 23 of the All India Council for Technical Education Act, 1987, the All India Council for Technical Education (hereinafter referred to as A.I.C.T.E.) has issued guidelines to be followed for admission of diploma in engineering degree programme. Prior to this there was no provisions for admission of diploma holders in engineering colleges as diploma holders have specialized their studies in a particular branch in the last 3 to 5 years. Hence provisions have been made for admitting candidates who have passed diploma in engineering in the relevant branch only. As a result of the decision of the State Government permitting diploma holders to appear in second year admission test, advertisement was made according to the guidelines of the A.I.C.T.E. for being eligible to seek lateral entry to an engineering degree programme at the second year/third Semester level a candidate must have passed Diploma in Engineering in the relevant branch with a minimum of 60 percent in the aggregate and only candidates fulfilling this condition would be eligible for appearing in the entrance test meant for selection of diploma holding candidates for lateral entry to degree programmes. The petitioners of this writ petition namely Rajendra Krishna Yadav, Sunil Kumar Singh and Naresh Kumar Tiwari find place at S. Nos. 496, 545 and 298 respectively. Petitioner No. 1 belonging to Backward Class while petitioner Nos. 2 and 3 are candidates from General Category. They appeared in the final year of Diploma course in Dairy Engineering. They filled up their forms for admission in Second Year Degree Course in Food Technology. It is alleged in the writ petition that Dairy Engineering is a relevant branch for Food Technology and the petitioners fulfilled the qualifications according to the guidelines issued by the A.I.C.T.E. for admission. It has been denied in the counter-affidavit that the course of study of Dairy Engineering and of Food Technology are the same.

5. A supplementary affidavit has been filed at a later stage received by the learned Counsel for the respondents on 16-3-99, through which a copy of the information brochure for U.P. State Engineering Admission Test, 1999 issued by U.P.S.E.T., 1999 has been filed as Annexure-1, in which admission to First Year and in Second Year only for 1 to 4 years Diploma Holders, B.E./B.Tech Arch/II Tech (Ag. Engg.)/B Pharma Course Entrance Test was to be held in which it was indicated that course in which the candidates having 3/4 year diploma with minimum 60 percent marks recognized by the U.P. Board of Technical Education or equivalent can get admission through entrance examination by U.P.S.E.A.T.-1999. At S. No. 31 under column of "Name of Courses at Diploma Level" Dairy Engineering was mentioned and in front of that "Course available at Degree Level". Food Technology was indicated, which is reproduced as under:

Course of B.E./B. Tech/B. Tech (Ag. Engg.)/E. Pharma in which candidates having 3/4 year Diploma (with minimum 60% marks) recognized by the U.P. Board of Technical Education or equivalent can get admission through entrance

examination by .P.S.E.A.T.-1999.

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the course at Diploma Course Available at Level Degree level	30.	Interior
Decoration and Design Architecture	31.	Dairy Engineering Food Technology

----- 6. Besides the above it has been stated in the Supplementary Affidavit that candidates already studying in first year Engineering Course in B.E. etc. has also appeared alongwith the petitioners in the entrance test and merit list was prepared and trades of first year students were changed while admitting them directly through the entrance examination and the respondents have acted arbitrarily and discriminately in admitting students of below merit rank than the petitioner simply on the alleged ground that Dairy Engineering trade was not available and that too without passing any written order and without giving any opportunity to show-cause or personal hearing.

7. Sri Ramesh Upadhyaya has vehemently opposed the relief claimed in the writ petition which is to the effect that a writ in the nature mandamus commanding and directing the respondents to admit the petitioners in Food Technology in Harcourt Butler Technology Institute, Kanpur or in any other Engineering College where Food Technology Trade is available or in any of the private Engineering College of U.P. State.

8. He has cited case law of the Apex Court laid down in the case of Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another, , in which the Apex Court has held as under :

"It is for each University to decide the question of equivalence of examination and it would not be right for the Supreme Court to sit in judgment over the decision of the University because it is not a matter on which the Court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is, an academic question in which the Court should not disturb the decision taken by the .University."

9. In view of the decision of the Apex Court in Rajendra Prasad Mathur v. Karnataka University and another (supra), this Court is of the opinion that it would not be proper to take a decision in the matter and the same should be left upon the respondent No. 1 i.e. State of U.P. as in the U.P. State Engineering Test, 1999 the diploma holders in Dairy Engineering were allowed admission in Food Technology treating the Dairy Engineering as a concern branch of Food Technology. It is a matter of worth consideration that in the supplementary counter-affidavit a chart has been filed containing the vacancies and in Food Technology in H.B.T.L, Kanpur one vacancy has been shown in General Category

and one in B.C. category and in R.B.S.C, Agra also two vacancies have been shown in General category and one in B.C. and one in S.C. category in Food Technology subject.

10. In view of the facts and circumstances mentioned above, it is a matter of consideration that there cannot be two enterim for the separate entrance examination for the same course as U.P. State Engineering Test, 1999 organised by U.P.S.E.A.T., Lucknow is permitting the diploma holders in dairy technology for appearing in the entrance test with a minimum 60% marks in diploma in food technology degree course while in the Combined Entrance Test Examination, 1998 organised by Motilal Nehru Regional Engineering College, Allahabad, the diploma holders in dairy engineering have been denied admission in food technology in spite of the fact that their names appeared in the select list and the persons below them have been given admission.

11. In the result, a writ in the nature of mandamus is issued commanding the Secretary, Technical Education, U.P. to take decision in the matter in question in the light of the observation made above and on the basis of the documents produced by the petitioners with their representations. The representation, if made, shall be decided by a reasoned order and if it is found that diploma in dairy engineering is the concerned branch for food technology degree course petitioners shall be provided admission in the next batch and in case of no vacancy or less vacancy in the concerned institution, All India Council of Technical Education shall permit additional seats for these candidates who are petitioners before this Court. The decision shall be taken within one month from the date of production of a copy of this order.

12. The writ petition stand disposed of with the above directions.