
(1999) 12 OHC CK 0027

In the Orissa High Court

Case No : Original Journ. Case No. 14099 of 1997

Rajesh Ekka and Others

APPELLANT

Vs

Controller of Examinations, Sambalpur University and Others

RESPONDENT

Date of Decision : 06-12-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2000 Ori 82 : (2000) 1 OLR 605

Hon'ble Judges : Pradipta Ray, J;L. Mohapatra, J

Bench : Division Bench

Advocate : J. Katikia, for the Appellant; R.K. Mohapatra, R.K. Dash, N.K. Sahoo, A.K. Panda, D.R. Swain, I.P. Dash, M.K. Nayak, B. Swain and Nepoleon Sahani, for the Respondent

Final Decision : Allowed

Judgement

Pradipta Ray, J.—The writ petitioners were duly admitted in the course for Diploma in Personal Management in Rourkela Institute of Management Studies, Rourkela. The said course of Post Graduate Diploma in Personal Management (hereinafter referred to as the "PGDPM") is two years course divided into Part-I and Part-II. After completion of one year's study a student is entitled to appear at the Part-I of the Examination consisting of six papers. Under the Regulations meant for the said PGDPM Course a student may continue his study in Part-II without appearing at the Part-I Examination at the end of the first year and may appear at both Part-I and Part-II Examinations at the end of the 2nd year. The petitioners appeared in Part-I of the PGDPM Examination in 1996, but they failed to clear all the papers in the said Part I of the Examination. At the end of the 2nd year i.e. 1997 the petitioners applied for being permitted to appear in the Part-1 of the Examination for the back papers and also In the Part-II of the Examination. The petitioners were permitted to appear at the Part-I Examination for the back papers, but they were denied permission to appear at the Part-II Examination in the same year. Being aggrieved the petitioners have filed this writ

petition. By order dated October 3, 1997 Hon"ble Justice P. K. Misra was pleased to grant interim order that --

"Without prejudice to the contentions to be raised by the opposite parties, the petitioners are permitted to appear in the VIth. Paper of the said Examination and the subsequent Viva-Voce test. The results of the Examination so far as the petitioners are concerned shall not be published without permission of the High Court."

Accordingly, although the petitioners appeared at the Part-II Examination, 1997 their results of Part-II of the Examination have not been published.

2. Under Clause 3(b) of the Regulation framed by the Sambalpur University for PGDPM Examination a candidate may at his option appear only in Part-I of the Examination or only at the Part-II of the Examination, if he has already passed Part-I or both in Part-I or Part-II together. According to the University authorities, a student can appear both in Part-I and Part-II of the Examination together, if he has not at all appeared at Part-I of the Examination, but if a candidate has appeared in the Part-I of the Examination and become unsuccessful, he is not entitled to appear at the Part-II of the Examination before clearing the Part-I of the Examination.

3. We have already referred to the relevant Clause 3(b), The interpretation sought to be put by the University on the 3rd part of Clause 3(b) cannot be accepted in view of the clear language of Clause 3(b). Second part of Clause 3(b) contains a restriction that a student can appear only in Part-II of the Examination only if he has already passed Part-I of the Examination. There Is no restriction in 3rd part which permits a student to appear both In Part-I and Part-II of the Examination together in the same year. Acceptance of University's construction requires addition of words at the end of Clause 3(b) like "if he has not appeared at the Part-I of the Examination in the previous years". It is a settled rule of construction that where language is clear and unambiguous no words can be added or subtracted or substituted to give It a different meaning.

4. That apart, we also do not find any rationale behind the restrictive construction a sought to be put by the University. When a student who has not appeared in Part-I of the Examination is permitted to appear at the Part-I and Part-II of the Examination together, there cannot be any conceivable reason for not permitting a student who has failed to clear the Part-I of the Examination in the previous years to appear both in Part-I and Part-II of the Examination in the same year. A student who has not appeared in the Part-I Examination and a student who has appeared at the Part-I of the Examination, but failed to clear the same stands on the same footing in as much as both of them have not passed Part-I of the Examination. Accordingly, we do not find Justification for making any distinction between the two situations.

5. Learned Advocate for the Sambalpur University has referred to the decision of the Supreme Court in Krishna Priya Ganguly and Others Vs. University of

Lucknow and Others, to argue that the High Court has no jurisdiction to interfere with the Interpretation given by the University, an academic body. The said decision does not apply to a situation like the present case. In Krishna Priya Ganguly's case High Court introduced a criterion different from that prescribed by the University and In that context Supreme Court observed that the High Court could not devise its own criterion for admission. In the present case the regulation framed by the University itself is being interpreted and given effect to. Moreover, as a proposition, it is also not correct that the High Court is bound to accept whatever construction is put by the University on its regulation. Such proposition militates against the basic principle of judicial review and concept of reasonableness as contained in Article 14 of the Constitution of India. According to us, the clear language of the 3rd part of Clause 3 (b) of the Regulations does not permit such restriction as sought to be put by the University.

6. For foregoing reasons, we allow the writ petition and direct the opposite parties to immediately publish the results of the petitioners of the Part-II of the PGDPM Examination within a period of two weeks from today. If any of the petitioners is found to have failed in the Part-II of the Examination, they would be permitted to appear at the next Part-II of the Examination.

L. Mohapatra, J.

7. I agree