

(2011) 04 SHI CK 0065
In the High Court Of Himachal Pradesh
Case No : LPA No. 68 of 2011

Rajesh Kumar

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 13-04-2011

Acts Referred:

Citation : (2011) 04 SHI CK 0065

Hon'ble Judges : Kurian Joseph, C.J;V.K. Ahuja, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Kurian Joseph, C.J.—Appellant is the writ Petitioner. The writ petition was filed with the following prayers:

(a) That writ of certiorari may kindly be issued against the Respondents to declare the Annexure P-7, Annexure P-9, Annexure P-15 and Annexure P-16 as arbitrary, unreasonable, unfair and discriminatory having no nexus with the object to admit/register to the Ph.D in Journalism and Mass Communication Department after following old pattern/criteria in view of the UGC (Minimum Standards and Procedure for award of M.Phil/Ph. Degree Regulation 2009) at Annexure P-5 and Annexure P-14 whereby the Respondent No. 2 advertised the admission notice for Ph.D programme through entrance test and the decision of Respondent No. 2 at Annexure P-7, Annexure P-8, Annexure P-15 and Annexure P-16 may kindly be set aside and quashed.

(b) That the writ of certiorari may kindly be issued against the Respondents to quash and set aside the admission/registration to Ph.D. in Journalism and Mass Communication on the basis of old criteria/pattern as per Office Order dated 26.12.2009 at Annexure P-8.

(c) That the writ of mandamus may kindly be issued against Respondent No. 2/ H.P. University to re-advertise the vacancies of Ph.D. for admission/registration in Journalism and Mass Communication Department of H.P. University through

entrance test as per amended Regulation 2009 of UGC adopted by the University.

2. The learned Single Judge dismissed the writ petition, having found that the Petitioner had participated in the selection process and hence it will not be just and proper to turn around and challenge the basis of selection, once defeated in the process. It was also found by the learned Single Judge that the University has formed a uniform pattern as far as registration to Ph.D. for the year 2009-2010 is concerned, to go by the old pattern. Aggrieved, the Petitioner has filed this appeal.

3. Learned Counsel for the Appellant-writ Petitioner vehemently contended that the UGC having issued its Regulations to conduct Ph.D. registration only through an entrance test, the University could not have followed any other pattern. But, it has to be seen that UGC Regulations were issued only in the month of June, 2009, whereas the University had already started the process of admission to Ph.D. as per its Notification (Annexure R-1), dated 25.2.2009. That Notification provides for admission in two stages of half yearly intervals, one in June and the other in December. Annexure P-7, under challenge, is in respect of December, admission. It was notified that the applications would be received upto 26th December, 2009. It was specifically made clear in the advertisement itself that admission would be on the basis of old pattern. It was to be the procedure for all the departments. Annexure P-8 is an addendum to Annexure P-7, extending the last date of receipt of the applications as 29th December, 2009 and the Petitioner submitted his application on 29th December, 2009. Thus, it is clear that process of admission started as per Annexure R-1, Notification, dated 25th February, 2009, much prior to the UGC Regulations issued in June, 2009 and the second half yearly admission to Ph.D. is only in continuation of the admission process started in February, 2009. The Petitioner, while submitting the application, knew very well that selection is to be conducted on the old pattern, being a process started prior to introduction of UGC Regulations. He was subjected to screening test as per the decision by the Department Council in Journalism and Mass Communication on 26.3.2010. It is seen from the reply that a fair and transparent procedure was followed in the process as to the assessment of the merit of each candidate. Thus, it cannot be said that any discriminatory or arbitrary step has been taken by the University.

4. Yet, another contention made by the learned Counsel for the Appellant is that as far as process of selection for the year 2010-2011, test was conducted in the month of August, 2010 and if so, the University could have followed the same process for admission to the 2009-2010 as well. As we have already noted above, the process for admission to the academic session 2009-2010 started in February, 2009, much prior to the introduction of UGC Regulations in June, 2009, whereas the process for admission to 2010-2011 started only after the introduction of UGC Regulations in the year 2009. That makes the whole difference. Having followed the UGC Regulations, issued in the year 2009, in respect of the selection process, initiated thereafter, it cannot be said that the

process, thus adopted by the University, is arbitrary or discriminatory.

5. The third contention advanced by the learned Counsel for the Appellant is that even the conduct of the screening test and the constitution of the Standing Committee is against the scheme, contemplated in the Regulations. We are afraid that contention cannot be appreciated at this stage since the Petitioner was well aware of the process of selection. He has willingly participated in the selection process and at any rate, it is a process adopted by the University as per the decision taken by the department in view of the large number of applicants for registration. The short listing process by way of screening has been done in a fair and transparent manner, as can be seen from paragraph 5 of the reply furnished by the University. The Regulation does not anywhere prohibit such short listing process. In any case, it will not be proper for this Court to look into those aspects at the instance of the Petitioner whose sole attempt and request is for conduct of the admission as per year 2010-2011 procedure by way of entrance test. That has been rightly repelled by the learned Single Judge. Though for different reasons also, we do not find any merit in this appeal, which is accordingly dismissed. The pending applications, if any. Also stand dismissed.