
(2013) 07 RAJ CK 0204
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4429 of 2010

Ram Prakash

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 08-07-2013

Acts Referred:

Constitution of India, 1950 — Article 14

University Grants Commission Act, 1956 — Section 2(f), 22(1)

Citation : (2013) 4 WLN 347

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Advocate : D.P. Sharma, for the Appellant; Rahul Khandelwal for Mr. Virendra Agarwal, for the Respondent

Final Decision : Allowed

Judgement

Ajay Rastogi, J.—The petitioner having qualified B.Sc. & B.Ed. did his M.A. from University of Rajasthan. Thereafter he did his M.Ed. from Kota Open University in the month of June, 2001 and submitted his application for Ph.D. registration under supervision of Dr. Smt. Vijay Laxmi Sharma on 26.7.2004 and when nothing substantive came forward that constrained him to approach this Court by filing instant petition. It was the specific case of the petitioner that one Smt. Anita Saini who was his batch mate and did M.Ed. along with him from Kota Open University in June 2001 applied for Ph.D. registration in the University of Rajasthan on 7.2.2002 and was registered in the University of Rajasthan on 18.2.2003 and Ph.D. was awarded to her on 12.12.2005 and this fact has been admitted by the respondent in their additional affidavit.

2. However, after notices of the present petition came to be served, the respondent UOR filed their reply and one of the objection was that the petitioner did his M.Ed. from Kota Open University and the said course is not equivalent to the M.Ed. course conducted by the equivalence committee of the University of Rajasthan and that was the sole reason assigned by the respondent in their reply

filed to the writ petition and further in the additional affidavit filed by the respondent-UOR it was deposed that as regards present petitioner is concerned he applied for registration for Ph.D. on 30.1.2004 but he was not registered for the reason that he failed to submit original documents as per the query letter dt. 26.7.2004 within a period of one month and accordingly it was treated to be canceled.

3. Reply has also been filed by the Kota Open University (respondent no. 2) where it has been averred that Open Universities have been established by an act of Parliament or State Legislature in accordance with the provisions contained in sec. 2(f) of the University Grant Commission Act, 1956 (Act 1956) and these Universities are empowered to award degrees in terms of sec. 22(1) of the Act 1956 and the degree/diploma/certificate awarded by the Universities are in conformity with the UGC notification issued from time to time. However, it has also been averred that Association of Indian Universities, New Delhi also written a letter to the Director, Planning & Development, Kota Open University on 26.2.1991 that the degree awarded of Kota Open University are recognized and equated with the corresponding degrees/diplomas of other universities established under the Act. Apart from this, the National Council for Teacher Education has also informed on 12.8.1999 that degrees awarded by the Kota Open University of M.Ed. in particular of the year 1998 are also recognized as per the standard fixed for the year 1999-2000.

4. Main thrust of the counsel for petitioner is that there is no documentary evidence placed on record that as to what is the report of equivalence committee and the material on which equivalence committee arrived at the conclusion holding that degree of M.Ed. awarded by Kota Open University is not equivalent to the degree of M.Ed. awarded by the University of Rajasthan. However, respondent no. 2 in its reply placed material on record to justify that once degree/diploma/certificate awarded by the University established under the Act of Parliament or State Legislation are recognized by the University Grant Commission there appears no justification to hold that University of Rajasthan and Kota Open University which are being created under State Legislation and still require to grant equivalence to the degree awarded by one of the University will not be considered equivalent to the degree awarded by another University and further submits that once the degree of M.Ed. awarded by the Kota Open University to Anita Saini who was his batch mate in 2001 was registered with the University of Rajasthan on 18.2.2003 and Ph.D. was awarded to her on 12.12.2005 why different standard was adopted in the case of the petitioner and this action is violative of Art. 14 of the Constitution.

5. Counsel for respondent submits that as per report of the equivalence committee degree of M.Ed. awarded by the Kota Open University being not equivalent to the degree of M.Ed. from University of Rajasthan as such the petitioner could not be registered for Ph.D. However, further submits that since the petitioner failed to submit original document within the period of 30 days

from 26.7.2004, the application was rightly canceled by the University. However, this fact remain controverted rather confirmed by the respondent that Anita Saini who was the batch mate of the petitioner did her M.Ed. from Kota Open University in 2001 she applied for Ph.D. in University of Rajasthan on 7.2.2002 and registered on 18.2.2003 and Ph.D. was awarded to her on 12.12.2005 by the University of Rajasthan.

6. This Court also find substance in the submissions made by counsel for petitioner and as regards objection of equivalence of degree is concerned no material has been placed on record in support thereof by the University of Rajasthan and apart from it once the respondent University of Rajasthan admitted this fact that Anita Saini who did M.Ed. along with the petitioner from Kota Open University in 2001 was registered for Ph.D. with University of Rajasthan on 18.2.2003 and Ph.D. was awarded to her on 12.12.2005 there appears no justification to adopt different standard for the petitioner and he is entitled to claim parity with Anita Saini and the action of the University of Rajasthan cannot be countenanced by this Court and in the opinion of this Court there appears no justification to deprive the petitioner who is otherwise eligible to be registered for Ph.D. and as regards the objection raised that required original documents were not submitted by the petitioner within the stipulated period, no documentary evidence has been placed on record which could indicate that the petitioner was ever informed for furnishing such documents in original and even after the notice of demand of justice was served and approached this Court by filing instant petition way back in 2010 if at all this was the requirement that can always be demanded from the petitioner and the technical plea could not be considered as ground to non-suit the petitioner of his legitimate right which the law confer upon him. Consequently, the writ petition succeeds and stands allowed and the respondents are directed to grant permission to the petitioner to complete the formalities which are required in terms of application initially submitted on 26.7.2004 and if he is otherwise eligible the petitioner may be registered for Ph.D. and may be permitted to proceed as per norms provided under the relevant Ordinance/Regulations.