
(2006) 09 AHC CK 0040
In the Allahabad High Court
Case No : Civil M.W.P. No. 30150 of 2000

Ram Prasad Kushwaha

APPELLANT

Vs

Vice-Chancellor, Bundelkhand University and Others

RESPONDENT

Date of Decision : 14-09-2006

Acts Referred:

Citation : (2007) 7 AWC 6859

Hon'ble Judges : Pradeep Kant, J

Bench : Single Bench

Advocate : R.S. Singh, for the Appellant; Prakash Padia and R.P. Tiwari, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Kant, J.—By this petition Ram Prasad Kushwaha claims recognition of the degree of Bachelor of Programme (B.A.), (one sitting), of the Bhartiya Shiksha Parishad U. P. and consequently also the prayer for declaration of the result of the B. Ed. Examination conducted by the Bundelkhand University for the academic session 1997-98. It appears that the Petitioner swayed by the scheme of the Govt. of India for providing Education from Open Universities, applied for admission in the aforesaid examination of B.A. to the Bhartiya Shiksha Parishad, Uttar Pradesh which is a registered body under the provisions of Societies Registration Act, 1860 for providing education under the Open University System. The Petitioner completed his one year's course which is known as one sitting course of Bachelor of Programme (B.A.) in August, 1995. He was issued a mark sheet which shows that Bhartiya Shiksha Parishad, U. P., conducted examination under Open University System, the name of which is Bachelor of Programme (B.A.) in one sitting. The Petitioner succeeded in that examination.

2. After clearing the aforesaid examination the Petitioner applied for admission in the B. Ed. course of the Bundelkhand University wherein he became successful in the test and was required to deposit Rs. 5,000 on 11.7.1997 under the special scheme for entrance. The Petitioner was issued admission card in B. Ed. Special

scheme on 12.7.1997 ; accordingly the Petitioner was given admission in Atarra College, Atarra district Banda. The Petitioner got himself admitted in the aforesaid college and as per his case after one year study he appeared in the examination in the year 1998 with Roll No. 97252. However, the Bundelkhand University did not declare the result and on contacted by the Petitioner he was informed that his B.A. (Bachelor of Programme) examination conducted by the Bhartiya Shiksha Parishad was neither a recognised degree nor was a degree of the minimum duration of 3 years which is the usual duration of graduate degree, the minimum basic educational qualification required for pursuing B. Ed. course. The Petitioner therefore has approached this Court for the reliefs aforesaid.

3. A counter-affidavit has been filed by the University specifically stating therein that B.A. Examination which has been cleared by the Petitioner is not a recognised degree and that in the absence of the minimum basic educational qualification, the Petitioner could not have been admitted in the B. Ed. Course nor he could be allowed to appear in the examination but since due to inadvertence this fact could not be noticed by the University at the time of admission therefore admission was wrongly given, but this fact in itself could not give any right to the Petitioner to get the result declared of B. Ed. Examination. A plea regarding the duration of the course of the graduate degree to be of 3 years as against the B.A. Degree of one year has also been taken by the learned Counsel for the Respondents.

4. Sri Ram Swaroop Singh learned Counsel for the Petitioner could not satisfy the Court and rather admitted that unless the Petitioner was possessed of the basic educational qualification, the minimum qualification which was necessary for making him eligible for taking admission in B. Ed. course, the Petitioner could not have been given admission in the B. Ed. course, but he qualified the aforesaid argument by arguing that the Petitioner is not at fault when he took admission with the Bhartiya Shiksha Parishad, little knowing that the degree which is to be given by the Parishad under the Open University Scheme would not be a recognised degree and that further when he was duly admitted by the University wherein he had not concealed any material fact regarding his educational qualification, he has a right to get his result declared.

5. I have considered the pleas raised from both the sides and I find that it is a hard case for the Petitioner which deserves sympathy but the Court would not be issuing any mandamus for declaration of the result where the Petitioner inherently lacks the basic educational qualification for being admitted in the B. Ed. course.

6. The plea that since the admission has been made and therefore the result be declared can also not be sustained for the simple reason that if the Petitioner is not eligible for being admitted and/or it was by inadvertence or otherwise he was admitted, it could not give any right to him for pursuing the B. Ed. Course or seeking declaration of the result.

7. A dispute has also been raised by the standing counsel that the Bundelkhand University stopped the B. Ed. Examination right from 1996-97 and therefore the plea raised that the Petitioner appeared in the examination in the year 1998 is not correct. However, I do not find it necessary to deal with this question as in my opinion no relief can be granted to the Petitioner, even otherwise.

8. Learned Counsel for the Petitioner lastly urged that since the Petitioner had applied for admission in the B. Ed. Examination in Bundelkhand University on the same result of Bhartiya Shiksha Parishad, U. P., annexing the mark sheet and other relevant papers etc., and the University had allowed the Petitioner admission in the B. Ed. Special Scheme, for which he was also required to deposit Rs. 5,000 as fee and was also admitted in one of the named college namely Atarra College Atarra, district Banda where he had studied one year therefore the University be directed to return the fee which was deposited by the Petitioner. His further argument is that since the Petitioner has been dealt with unfairly resulting into loss of precious time, he is entitled for appropriate damages from the University and also from Bhartiya Shiksha Parishad.

9. Sri Prakash Padia appearing for the University in response had stated that since the Petitioner had studied for one year therefore there was no question for returning the fee or award of damages.

10. From the facts available on record and the admitted position on behalf of the University that the Petitioner did not conceal his basic educational qualification at the time of admission and has provided the necessary certificate including the mark sheet showing that he had cleared the aforesaid examination from Bhartiya Shiksha Parishad, the action of the University giving him admission even of its own with the aforesaid material may be by oversight, cannot run against the Petitioner or against his interest. One cannot lose sight of the fact that the Petitioner could have pursued some other course, and the University not admitted him in B. Ed. course, which virtually wasted his complete one year under the mistaken belief that he is pursuing a professional qualification. There is no fault of the Petitioner in taking admission and pursuing the course for one year and for the delayed action on the part of the University in cancelling his admission or informing about his ineligibility.

11. For the lapse on the part of the University which has resulted into wasting of one year precious time of his youth in pursuing the course of study as it was the duty of the University to deny admission to the Petitioner at the very outset and in fact his form for admission should not have been entertained, makes the Petitioner entitled to the refund of fee viz., Rs. 5,000 from the University. Besides the aforesaid amount of fee, the Petitioner is also entitled to the damages, for compensating him for the loss that he suffered, by pursuing a course, to which he was not entitled, because of the mistake on the part of the University in admitting him and allowing him to carry on the studies for one year. I assess these damages, to the tune of Rs. 5,000.

12. The plea that the Petitioner is liable to be compensated by Bhartiya Shiksha Parishad also, as they did not disclose that B.A. Program was a course which was not recognised, however, cannot be accepted, as firstly, the Parishad has not been impleaded as a party and secondly, it is not the case of the Petitioner that the Parishad had made any such representation which misled the Petitioner. The plea is thus rejected.

13. For the aforesaid reasons, though I hold that the Petitioner is not entitled to any relief as claimed, and dismiss the writ petition, but direct that the Petitioner shall be paid a total sum of Rs. 10,000 only within a maximum period of one month from the date of receipt of a certified copy of this order by the University. As requested by the learned Counsel for the parties, the said amount be sent at the address of the Petitioner by means of a Demand Draft or Banker's cheque under Registered cover.

14. Subject to the above direction, the petition is dismissed. Costs easy.