
(2014) 10 KL CK 0139
In the High Court Of Kerala
Case No : W.P. (C). No. 25418 of 2014 (B)

Remya Remesh

APPELLANT

Vs

Vice Chancellor

RESPONDENT

Date of Decision : 29-10-2014

Acts Referred:

Citation : (2014) 10 KL CK 0139

Hon'ble Judges : K. Vinod Chandran, J

Bench : Single Bench

Advocate : B. Ragunathan, G. Gopalakrishna Pillai, M. Salim, R. Srinath, M.M. Lalbind and V.M. Jacob, Advocate for the Appellant; Millu Dandapani, SC, Advocate for the Respondent

Judgement

K. Vinod Chandran, J.—Petitioner is aggrieved with Ext. P12, which removed the petitioner from the rolls of the respondent University. The admitted facts are that; the petitioner was provisionally admitted to M. Tech (Full Time), 2014 in Electronics and Communication (Wireless Technology) in the School of Engineering, affiliated to the respondent University, on spot admission. At the time of admission, no mark-list was produced and the petitioner was provisionally admitted, subject to production of mark-list. When the mark-list was produced, subsequently it was noticed by the respondent University that the petitioner had failed in the sixth semester B. Tech examination and had appeared for the supplementary examination along with the final year 8th semester examination of the graduate degree. The petitioner was, hence, found to be ineligible to apply for the Common Admission Test of 2014 as per the admission procedure prescribed in the prospectus of the University at Ext. P13. It was also in consequence of such disqualification in threshold eligibility; that the petitioner was issued with Ext. P12.

2. Learned counsel for the petitioner would contend that, in fact, the admission was made by the University after verifying the entire mark-list and the petitioner, having been admitted and continued for sometime in the course, cannot be sent

away, merely for the reason that, she had not qualified in the regular 6th semester examinations. The petitioner, having qualified in the supplementary examinations along with final year examination, is a graduate degree holder, who is entitled to continue in the post-graduate course, is the contention. Learned counsel would contend that, Ext. P12 was issued without notice to the petitioner.

3. Learned Standing Counsel for the respondent University would further rely on Ext. P13, to contend that, only those persons who had appeared for the final year examinations in their graduate course and whose results were not published is entitled to appear for Common Admission Test to the post-graduate course in the respondent University. The prescription for admission to the post-graduate course is a graduate degree and only those persons, who had a graduate degree could be considered for participation in the Common Admission Test. The relaxation in the regulation was only considering the fact that the results of the final year examinations would not be published in all the Universities and those persons who were awaiting results, would not then be able to appear for the Common Admission Test.

4. The prescription in Ext. P13 is very clear. Only students, who had appeared in the final semester of the qualifying graduate degree were permitted to appear for the Common Admission Test and that too, only if they had appeared for the examinations and the results were pending publication. The petitioner had, with open eyes, applied for the same, knowing fully well that she was not qualified to participate in the Common Admission Test. Petitioner's contention, that the mark-lists were produced and the University had verified the same before admitting the petitioner, is belied by the undertaking in Ext. R1(a). Petitioner, admittedly, was a student, who was admitted on spot admission when verification of mark-list and certificate was not carried out and the petitioner had undertaken production of the same. Ext. R1(a) indicates that the petitioner was obliged to produce the mark-list on or before 20.7.2014. The respondent University submits that they had waited for the production of the mark-list till Ext. P12 was passed only since, the petitioner was appointed to a reserved vacancy and the last date of admissions being over, no other candidate could be accommodated thereon. This Court is of the opinion that the petitioner had appeared for the examination knowing fully well that she was not eligible to participate in the Common Admission Test.

5. Learned counsel for the University relies on the decision of the Honourable Supreme Court in *Ashok Chand Singhvi Vs. University of Jodhpur and Others*, , wherein admission made was cancelled only for the mistake of the authorities in verifying the mark-list and for having admitted the candidate after the last date prescribed. When a candidate conceals nothing from the University, it was held that the admission cannot be cancelled. The student was found to have the eligibility of 60% marks in the Diploma examination. Since the admission after last date itself was a mistake committed by the authorities on the strength of a resolution, which was contrary to the University statutes, the Hon'ble Supreme

Court directed regularisation of admission.

6. No such fault on the part of the authorities is discernible herein. The prospectus, relied on by the University, was clear and lucid. It was specifically laid down that the eligibility for application to the Common Admission test is for the students, who have passed qualifying examinations prescribed under the eligibility criteria, i.e., graduate examination, herein, B.Tech. The relaxation was only with respect to students, who had appeared for the final year examination and whose results were not declared. Hence, only a student, who had qualified in all the earlier semesters and the results of the final year examination was awaited, could actually apply for the Common Admission Test. The relaxation was only to those who had appeared for the final year examination and whose results were not published. The petitioner, having failed in the 2nd semester examination, had also presumably failed in the supplementary examinations, held later during the graduate course, which resulted in her appearing for the 2nd semester supplementary examinations held along with the final year examinations. The petitioner, not coming within the relaxation granted to the eligibility criteria, there is no question of the petitioner being admitted merely because she had participated in the Common Admission Test. A candidate who had just completed the graduate course; otherwise qualified for admission, but, would be disentitled only for reason of non-publication of final year results alone was entitled to the relaxation.

7. The admission made was also a spot admission without verification of the mark-list and only when the mark-lists were produced, the University came to know of her failure in the 2nd semester examinations and subsequent appearance along with the final year examinations. Evidently, the petitioner, who was granted spot admission had not produced the original mark-list or certificate of the qualifying examination at the time of admission. The University specifically points to the guile employed by the petitioner in applying for the Common Admission Test; against the regulation. Under such circumstances, there is no warrant for any interference in the cancellation of admission made by the University. Writ petition is, hence, dismissed.