

(2014) 10 KL CK 0229

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 16771 of 2012 (V)

Reshma M.S.

APPELLANT

Vs

Vice Chancellor

RESPONDENT

Date of Decision : 16-10-2014

Acts Referred:

Citation : (2014) 10 KL CK 0229

Hon'ble Judges : K. Vinod Chandran, J

Bench : Single Bench

Advocate : R.S. Kalkura, M.S. Kalesh, Harish Gopinath and A.V. Priya, Advocate for the Appellant; Bechu Kurian Thomas, S.C. and V.K. Rafeeq, Government Pleader, Advocate for the Respondent

Judgement

K. Vinod Chandran, J.—The petitioner is concerned with her continuation in the M.A. (English) course, which as per the decision of the Academic Council of the respondent University has been interdicted on the ground of her alleged ineligibility.

2. The petitioner admittedly was a candidate in a "Re-structured Course", conducted by the University of Kerala, under its own affiliated college. Under the "Restructured Course", there are certain combinations of subjects granted, which is not regularly available. In the present case, the petitioner had completed a graduation obtaining a B.Sc. Degree with core subject of Botany and vocational subject of Biotechnology as also an auxiliary subject of Biochemistry. A regular course as is commonly understood would have three Science subjects, one main and two subsidiaries, from the common subjects of Physics, Chemistry, Biology, Zoology and Mathematics.

3. The petitioner also has been granted a B.Sc. Degree, as is evidenced by Ext. P4, of the respondent University, which, for all functional purposes, would be deemed to be identical to a graduate degree granted in any another subject. The difficulty arose only when she applied for a Post-Graduation (P.G.) in English, as per the prospectus produced at Ext. P6, the omitted extracts of which have been

produced by the University as Ext. R2(a). The decision taken by the Academic Council is evident in Ext. P3, which is said to be for the reason that, the degree obtained by her is under the faculty of Applied Sciences and Technology, which renders her ineligible for admission to M.A. (English Language and Literature) Course. The petitioner contends that, she had undergone a regular course and has completed six semesters, the mark lists of which are produced as Ext. P5 series.

4. The learned Standing Counsel appearing for the University would argue that, a reading of the entire prospectus would indicate that the admission if any granted by the college to a candidate, in a course; would only be provisional and would be subject to verification of eligibility by the University. Further the prescription for preparation of mark list is referred to. Item No. 3 would indicate that any candidate, who has taken a non-English course would be eligible only if he/she qualified Part-I English, carrying a total of 300 marks. In the "Re-structured Course", the University, conducts examinations only in the even semesters and the odd semester examinations are conducted by the college itself. The even semester examinations conducted by the University, examines the candidate in English, only for a total of 200 marks. Hence the eligibility would be not available to the petitioner, who has obtained a degree under the "Re-structured Course", where the petitioner has appeared in Part-I English, carrying only 200 marks as against the eligibility of having passed exams with a total of 300 marks.

5. It is to be specifically noticed that, the counter affidavit filed by the University, takes a different contention from that taken by the Academic Council. The Academic Council holds that, the eligibility is not available to the petitioner, for reason of her having studied under the faculty of Applied Sciences. The counter affidavit however projects a totally different contention as to the eligibility, on the basis of the total marks, for which the petitioner has been examined in Part-I English. At the outset, it has to be found that, the decision of the Academic Council is not supported by any such prescription in the regulations or the prospectus as produced by the petitioner and the University. There is no bar insofar as a graduate, who obtained such qualifications under the faculty of Applied Sciences, from being admitted to the PG Course in English.

6. One has to first look at the eligibility as provided in the prospectus. The "Re-structured Course"-Regulations are also produced by way of a memo, by the University. What has been pointed out by the University from the prospectus is a prescription for preparation of rank list, which prescribes an additional eligibility criteria. Paragraph 3 in Ext. R2(a) under 6.1.1 is referred to, to disentitle the petitioner as having not been examined for a total of 300 marks in part-I English. The mark lists however show otherwise, Exts. P5(a) to P5(f) are the six mark lists, of the six semesters, in which the petitioner was examined in Part-I English, in the 1st, 2nd, 3rd and 4th semesters.

7. The University asserts that, only 2nd and 4th semesters are conducted by the University and hence, the petitioner is deemed to have been examined in English

Part-I only for a total of 200 marks. In deciding eligibility, only the University exams are taken into account seems to be the contention. The odd semester examinations, the 1st and 3rd semesters being relevant herein, are conducted by the college. The odd semester exams would come within the ambit of an internal assessment as prescribed in the regulations, and hence cannot be an eligibility criterion for P.G. is the plea.

8. The regulations produced along with a memo, clearly indicates that, without qualifying in the internal assessment, the petitioner could not have obtained the degree. The pass requirements as shown in the regulations specify that a candidate has to obtain a minimum of 35% marks excluding internal assessment and a minimum of 40% marks including internal assessment, for being qualified as a graduate. Though the examinations are said to be conducted by the college, without the minimum qualifying marks being obtained in the internal assessment, no candidate could aspire to get a degree certificate in the concerned subject under the "Re-structured Course". The argument with respect to the odd semester exams, being considered as "internal assessment" is specious, insofar as all the mark lists, for odd and even exams award marks for "internal assessment".

9. The pass requirements also specify that, a candidate must pass all the papers in the 1st and 2nd semester examinations, in the three chances given to them. The registration for the 6th semester would also be permitted only if the candidate has passed the 1st and 2nd semesters. The mere fact that only aggregate marks secured for the even semesters would be considered for the final classification of results, cannot be a reason to dispel the significance and relevance of the "internal assessment" or the odd semester exams; for the final acquisition of degree, as such. The odd semester examinations are also, an integral part of the course and a pass therein with a minimum specified percentage is a mandatory requirement for granting the degree.

10. In the present case, the petitioner had been examined for a total of 400 marks in the first 4 semesters, in Part-I English. The odd semester examinations admittedly were conducted by the college and the even semester exams by University. The prospectus of the P.G. course does not draw any distinction between the University examinations and the examinations conducted by the college. Definitely, there is an anomaly in the prospectus and if the University intends to disentitle such candidates, there should be amendments made. As it stands now, it cannot be said that a candidate qualifying under the faculty of Applied Sciences would be disentitled from getting admitted in a P.G. course in English. Nor can it be said that, a candidate would be so disentitled for reason of the University having examined such candidate in Part-I English only for 200 marks. The "internal assessment" is also a criteria laid down by the University and so would the course content be approved by the University. None who qualifies in a "Re-structured Course", under the graduate stream can be deemed to be only a half-graduate for reason of the University having examined him only

in the even semesters.

11. The learned Standing Counsel for the University would caution this Court, insofar as the binding precedents of the Hon"ble Supreme Court that, this Court should not exceed its jurisdiction insofar as super-imposing a decision taken by an academic body for the simple reason of a lack of expertise in such academic matters. This Court has to concede such a lack of expertise in academic matters. But, however, going by the facts of this case and looking at the prospectus as also the eligibility conditions, the decision arrived at by this Court is not a super-imposition of the decision of the Academic Council. This Court finds that the conditions on which the eligibility has been declined by the Academic Council to the petitioner is not one available in the prospectus at all. Nothing in the regulations or the prospectus decline eligibility to the petitioner either by way of the faculty of Applied Sciences being given a different status or the "Re-structured Course" being treated as distinctly inferior than the usual graduate course. Neither does the stipulation of eligibility treat University exams and exams conducted by college as separate and one has to qualify in both; in the latter with a higher percentage to get awarded the graduate qualification. The petitioner has to be continued in her course and her admission has to be regularized.

The writ petition is allowed with the above directions and observations. Parties are left to suffer their respective costs.