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**(1993) 04 AHC CK 0022**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 3228 of 1993

Ritika Ramtri

APPELLANT

Vs

Allahabad University and Others

RESPONDENT

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**Date of Decision :** 27-04-1993

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Uttar Pradesh State Universities Act, 1973 — Section 28(5)

**Citation :** (1993) 3 AWC 1523 : (1993) 3 UPLBEC 1986

**Hon'ble Judges :** Vijay Bahuguna, J

**Bench :** Single Bench

**Advocate :** R.G. Padia and Prakash Padia, for the Appellant; Haider Husain, for the Respondent

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## **Judgement**

Vijay Bahuguna, J.—Heard Dr. R.G. Padia, learned Counsel appearing on behalf of the Petitioner and Sri Haldar Hussaln, learned Counsel appearing oa behalf of the Allahabad University.

2. By means of the present petition under Article 226 of the Constitution, the Petitioner prays for the issuance of a writ of mandamus directing the Allahabad University to admit her in M Ed. course session 1992-93. The Petitioner, who is an all round 1st Class outstatioo student, applied to the University for admission in the M. Ed, course of 1992-93 session. The Petitioner was not given admission and her name did not appear in the list of candidates admitted in the M. Ed, coorse. The Petitioner contends that the University has wrongfully refused admission to her and the act is wholly arbitrary. By an interim order of this Court dated 26-2-1993 the Petitioner was permitted to attend the classes.

3. In the counter-affidavit filed on behalf of the University it is stated that the merit list of the candidates for admission in the M. Ed, course of 1992-93 session was prepared in accordance with paragraph 18 of the Government Order. The Petitioner was at 81. No 3 In the list of tho outstatlon candidates and in accordance with the quota prescribed by the Government Order the first

candidate: Lal Singh, whose merit index was 421.12, was granted admission. The merit index of the Petitioner was 393.5. It is further stated that the admission closed on 22-9-1992 and M. Ed. classes started from 25-9-1992.

4. After the admissions were over the University received certain completes with regard to forged mark-sheets having been submitted by some students seeking admission and as such enquiries were made and thereafter the admission of six candidates was cancelled by the admission committee on 23-11-1992. It is not disputed that six vacancies were not filled in by the University and they still remain vacant.

5. Learned counsel appearing on behalf of the University contended that as the session is now complete and the examinations are scheduled to be held in mid May, 1993, no relief can be granted to the Petitioner inasmuch as she has not attended any practical classes and has attended only a few lectures in the month of March, 1993, pursuant to the order passed by this Court dated 26-2-1993. In the supplementary affidavit filed on behalf of the University it is stated that in the M. Ed. course a student has to attend 10 practicals out of which 8 have been completed and that a student has to submit a dissertation work and 15-4-1993 was the date fixed for sending dissertation report to the external examiner. The dissertation report carries 100 marks. The University has also annexed a copy of the letter of the Head of the Department which is Annexure "I" to the supplementary affidavit of Suhail Ahmad sworn on 12-4-1993 that dissertation report has to be submitted before the theory examination commences and that immediately within a week of the completion of the theory papers the viva voce test is conducted on theory paper, dissertation work and the practical work and that the dissertation report is not accepted by the University after the commencement of the written examination. It is further stated that for dissertation work it is necessary that the students should attend practical classes and go to colleges to study and submit the dissertation work.

6. It is not disputed that the Petitioner cannot submit a dissertation report before the commencement of the written examinations which are scheduled to take place from 15-5-1993 and as such the Petitioner cannot be permitted to appear in the examinations of M. Ed. course of 1992-93 session as the Petitioner has not attended any practical classes and has not prepared the dissertation work,

7. However, the University was not justified in refusing admission to the Petitioner, admittedly six seats had fallen vacant and the Petitioner was constantly knocking at the door of the University for admission. The Government order dated 5-3-1987 issued in exercise of powers under Sub-section (5) of Section 28 of the U.P. State Universities Act, 1973, a copy whereof is Annexure "8" to the writ petition, lays down conditions for admission in the M. Ed. course. Clause 14 of the Government order reads as follows ;

14. Admission-(a) The principal of the concerned college shall give admission to the candidates after verifying their original certificates;

(b) The provisional certificate specially for the marks under para 11 shall not be accepted;

(c) The principal has to take prior approval of the Vice-Chancellor before finally refusing admission to any candidate;

(d) The University shall also prepare a waiting list. If any seat falls vacant within a month after the classes have started it will be filled from waiting list. It shall be the responsibility of the University to intimate the college and the candidate to fill the vacant seats.

(e) Every candidate selected for admission shall have to furnish before admission a certificate counter signed by the Chief Medical Officer in which it should be clearly mentioned that the candidate does not stammer and on account of any disease of the ear, eye or any other limb not unfit to be a teacher.

A perusal of Clause 14 (d) makes it clear that if any seat falls vacant within a month after the classes have started it will be filled from the waiting list. The stand of the University that the waiting list applies only to the local candidates is wholly misconceived. Even if it is not the case of the University that local candidates were available and as such the petitioner could not be considered for admission. As six seats had fallen vacant, and the Petitioner was keen to get admission, then in the absence of other candidates, who were above her in the waiting list, the Petitioner should have been granted admission. The act of the University in allowing six seats in M.Ed. course to remain vacant in the 1992-93 session is contrary to the Government order and also to the academic policy of the University. The Petitioner has been deprived of a legitimate admission in the University, but it is on account of the delay in the hearing and disposal of the writ petition that admission cannot be granted to the Petitioner in the present session. The denial of admission to the Petitioner, therefore, suffers from manifest error of law. The petition was filed in the midst of the session 1992-93 and an interim order was also passed permitting the Petitioner to attend classes. For the reasons given above the Petitioner cannot be permitted to appear in the 1992-93 examinations of M Ed. course. However, it is expedient in the interest of justice that the Petitioner is given admission in the M. Ed. course of the next session so that the wrong, which has been done to her, is rectified. The decision of the Supreme Court in *Dr. Vinay Rampal v. State of Jammu and Kashmir* AIR 1983 SC 199 and the decision of this Court, *Dr. Arohana Rohatgi v. State of U.P.* 1985 (2) ALR 694 fully support the claim of the Petitioner for getting admission in the next academic session. If the Petitioner applies for admission in the next session of the M. Ed. course of the Allahabad University, the University is directed to admit the Petitioner.

8. Subject to the directions given above the writ petition succeeds in part and is allowed. There shall be no order as to costs.