

(1972) 11 RAJ CK 0017

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1578 of 1972

Roshan Lal Seth

APPELLANT

Vs

The University of Rajasthan

RESPONDENT

Date of Decision : 10-11-1972

Acts Referred:

Rajasthan University Regulations — Regulation 12

Citation : (1973) RLW 154 : (1972) WLN 874

Hon'ble Judges : V.P. Tyagi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

V.P. Tyagi, J.—Petitioner Roshan Lal has filed this writ petition and it arises out of the following circumstances.

2. The petitioner appeared at the M.A. (Final) Examination held by University of Rajasthan in the year 1972 and was declared unsuccessful as he failed to obtain 36 percent aggregate marks, The petitioner's contention is that he had appeared in M.A. (Previous) examination in Economics in 1971 and had obtained out of the total of 400 in four papers 165 marks and was permitted to appear at M.A. Final examination in 1972 Out of total of 500 marks including Viva-voce test he secured in M.A. (Final) 169 marks. The petitioner's case is that according to Regulation 12 a candidate who wants to pass his M.A. Examination in any subject is required to get 25 percent marks in each individual paper both in M.A. Previous and Final examinations and has to secure 36 percent aggregate in the subject. According to the marks list supplied to the petitioner, out of 900 total marks he got 334 marks in both the examinations. viz. M.A. Previous and M.A. Final, which is more than 36 percent as required by Regulation 12, Petitioner's grievance is that the University by misconstruing Regulation 12 declared him as fail. A representation was made by the petitioner to the Registrar of the University to reconsider his case in the light of the interpretation of Regulation 12 as given by him, but his representation was turned down by the Registration the

ground that as he failed to secure 36 per cent of the aggregate marks in M.A. (Final) examination he could not be declared to have passed the M.A. Examination. The letters exchanged with the University have been placed on the record, and are marked as Ex. P/4 and Ex. P/7. The petitioner has now filed this writ petition praying that an appropriate writ, order or direction be issued by this Court quashing the declaration of the result of M.A. Examination by the University as far as it relates to the petitioner and the University may be directed to declare the petitioner as pass in the M.A. Examination in Economics held in the year 1972.

3. The University has opposed this petition mainly on the ground that in the subject of Economics a candidate has to appear at the two examinations, viz, M.A. (previous) and M.A. (final) and in order to get the degree of Master of Arts a candidate is required under Regulation 12 to obtain 36 per cent of aggregate marks separately in both the examinations; and since the petitioner has failed to obtain 36 per cent aggregate at the final examination, he has been rightly declared as fail at the M.A. (final) Examination of 1972.

4. This controversy raises an important question about the interpretation of Regulation 12, which deals with the scheme of M.A. Examination. But before coming to the language of Regulation 12. I would like to refer to Ordinance 210 and 212, which are relevant for obtaining the Degree of "Master of Arts." Ordinance 210 reads as follows:

O. 210 The Examination for the Degree of "Master of Arts" shall consist of two parts viz: the Previous Examination and the Final Examination.

Ordinance 212 provides that a candidate who, after passing the Previous M.A. Examination of the University has completed a regular course of study for one academic year in an affiliated college, shall be admitted to the Final Examination for the degree of Master of Arts.

5. These two Ordinances, when read together, leave no room for doubt that a candidate who wants to obtain a degree of Master of Arts, has to take up two examinations viz. M.A. (previous) and M.A. (final) and he can be permitted to appear at the final examination only when he has passed the previous Examination, and thereafter has completed a regular course of study for one academic year. Ordinance 213 deals with the subject for examination for which a Degree for Master of Arts can be given under the scheme of M.A. Examination and Economics has been given as one of the subjects. Regulation 12, however, deals with the scheme of M.A. Examination and it reads as follows:

For M.A. Examination taken either at the end of the two year integrated course of study or in part viz; the Previous & the Final, candidates must obtain for a pass at least 36 per cent of the aggregate marks in each subject, provided that if a candidate fails to secure 26 per cent marks in each individual paper and also in the Viva-voce tests wherever prescribed, he will be deemed to have failed in the examination notwithstanding his having obtained the minimum percentage of

marks required in the aggregate for the examination. The marks of the two examinations, Previous and Final, will count together for a place on the pass list of the Final Examination. No division will be assigned on the result of the Previous Examination....

6. A candidate who has to appear at the M.A. Examination in Economics, according to the scheme of Examination, has to appear in four papers in the previous Examination and another four papers along with the Viva-voce test in the Final Examination.

7. It is not disputed in this case that the petitioner has secured 25 per cent marks in each individual paper both at the previous and final examinations and also 36 per cent aggregate if it is to be calculated for both the Previous and Final Examinations together. The case of the University is that a candidate has to secure 36 per cent aggregate separately at both the examinations and since the petitioner has failed to secure 36 per cent aggregate at the Final Exam., the University has rightly declared him as fail. The question which therefore, arises for the determination of this Court is whether it is necessary for a student to get the degree of Master of Arts in Economics to obtain under the scheme of examination as laid down in Regulation 12, 36 per cent of the aggregate marks separately at each examination, viz, the Previous and the Final Examinations or he has to secure 36 per cent of the aggregate marks in the subject after taking into consideration the marks obtained by him in all the eight papers and the Viva-voce test covered by him in M.A. (Previous) and M.A. Final) Examination.

8. It may be noted here that under the Scheme of M.A. Examinations the University conducts the Examination for English not in accordance with Ordinance No. 210, but it has a different scheme and the candidate is required to appear in all the papers at the end of two years study. The University calls this scheme as two years integrated course of study, but it is significant to observe that the M.A. Examination in English is also governed by Regulation 12 and the students are required to secure 25 percent marks in each paper and the 36 per cent of the aggregate for the subject in order to qualify themselves for the degree of Master of Arts in English.

9. Regulation 12 contains the scheme for M.A. Examination, which, according to Mr. Kasliwal covers both the examinations of M.A. Previous and M.A. Final. His argument, therefore, is that in order to pass M.A. examination a candidate has to pass both M.A. Previous and M.A. Final Examinations separately and for that he is required to obtain 36 per cent of the aggregate marks in each examinations. Mr. Mehta, appearing on behalf of the petitioner, on the other hand, contends that the requirement of Regulation 12 is that a candidate appearing at the M.A. Examination, which undoubtedly covers both M.A. Previous and M.A. Final Examinations, has to secure 36 per cent of the aggregate marks in the Subject in which he appears at the M.A. Examination and 25 per cent marks in each paper.

10. I have given a very careful thought to the different interpretations given to

Regulation 12 by learned Counsel for the parties and I am of the opinion that the language of Regulation 12 is unambiguous and does not admit two different interpretations. According to this Regulation a student appearing for M.A. Examination is required to obtain 25 per cent marks in each individual paper including the Viva-voce test and he has to secure 36 per cent of the aggregate marks in each subject, which he has chosen to get his degree for Master of Arts. The expression used in Regulation 12 "candidates must obtain for a pass at least 36 per cent of the aggregate marks in each subject" cannot be interpreted to mean that he has to obtain 36 per cent of the aggregate marks for half of the subject also which he covers by taking up four papers in the Previous and the other half by taking four papers with Viva-voce test in the Final Examination. In order to find out whether a candidate has secured 36 per cent of aggregate marks in the subject, which he has taken for the Degree of Master of Arts, the University shall have to take into consideration the marks obtained by such a candidate in all the eight papers and in the Viva-voce test covered at both the examinations. Ordinance 212 no doubt requires that a candidate can appear in M.A. final examination only when he has completed a regular course of study for one academic year after passing his M.A. Previous examination, but it does not lay down any standard for passing previous examination. In order to find out whether a candidate has passed his M.A. Previous examination, we have to refer to Regulation 12 which requires that a candidate should obtain 25 per cent marks in each paper. Since the entire subject is not covered by a student in his M.A. Previous course, the requirement of getting 36 percent of the aggregate market cannot be attracted to declare a candidate as pass in his M.A. (Previous) Examination. The requirement to get 36 per cent of the aggregate marks is for the subject and not for the part of subject Therefore, aggregate marks can be considered only when the result of a candidate is to be declared for M.A. Examination and not for the part of M.A. examination, i e. M.A. (Previous) or M.A. (Final), as is clear from the language of Ordinance 210, that these two examinations are the parts of M.A. Examination. Therefore, in the scheme of things aggregate marks cannot be considered by the University to declare the result of M.A. (Previous) or M.A. (Final) Examinations separately. In this view of the scheme of examination a candidate shall be taken to have passed his M.A. (Previous) or M.A. (Final) Examination if he has obtained 25 per cent marks in each paper, and this Ordinance 212, as canvassed by Shri Kasliwal, can not provide any clue to interpret Regulation 12. The only meaning that can be given to Regulation 12 is that in order to declare a candidate pass at the M.A. Examination which undoubtedly would consist of M.A. (Previous) and M.A. (Final) examinations, a candidate is required to secure 25 percent marks in each paper and 36 per cent of the aggregate marks in the subject which percentage can be calculated only after taking into consideration the total marks obtained by him in all the eight papers and the Viva-voce test when a candidate can be said to have covered the entire subject by appearing in at the M.A. Previous and M.A. Final examinations.

11. Mr. Kasliwal urged that the practice followed by the University is that it declares a candidate pass in M.A. (Previous) and M.A. (Final) Examinations only when he secures 36 per cent of the aggregate marks at both these examinations separately. The practice of the University cannot change the Regulation which has a force of law and for which a student has a right to seek mandamus from this Court to the University if it is not correctly followed by it. If the University feels that Regulation 12 has not been correctly framed it can amend it in accordance with the procedure laid down in the Rajasthan University Act, but as long as this Regulation stands in the present form the University is bound by it and the candidate appearing for M.A. Examination can claim as of right to declare his result in accordance with the correct interpretation of the Regulation as given by this Court.

12. For the reasons mentioned above the writ petition is allowed and a direction be issued to the University to declare the result of the petitioner in accordance with the interpretation given to Regulation 12 by this Court. No order as to costs.