
(1996) 05 OHC CK 0029
In the Orissa High Court
Case No : O.J.C. No. 4146 of 1995

Sanatan Mohanta

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 15-05-1996

Acts Referred:

Citation : (1996) 2 OLR 171

Hon'ble Judges : P.C. Naik, J;A. Pasayat, J

Bench : Division Bench

Advocate : A.C. Pradhan, D.R. Nanda and S.B. Das, for the Appellant; Sanjib Swain, for opp. party Nos. 2 and 3, for the Respondent

Judgement

A. Pasayat, J.—Petitioner seeks for a direction to the Utkal University (hereinafter referred to as "the University") and its Controller of Examinations to issue his certificate and mark-sheet in respect of Bachelor of Arts Examination held in the year 1982.

2. A brief reference to the factual aspects would suffice.

Petitioner appeared at the Bachelor of Arts (Pass) Examination as a candidate of Keonjhar College, Keonjhar. His roll number was 401K075. He did not come out successful in the said examination. From the mark-sheet obtained from the college authorities, it appeared that he had passed in all subjects, except English. He appeared in the Supplementary Examination, 1982, as a compartmental candidate bearing roll number 40 1K018. After publication of the result, marksheet was issued by the Controller of Examinations of the University wherein it was indicated that the petitioner had passed in the Second 8. A." Examination. Subsequently in the year 1995 petitioner filed an application for issuance of a certificate of his having passed the examination. As the same was not issued, petitioner has approached this Court by filing this writ application.

3. In response to the notice issued, the Vice-Chancellor, Utkal University (opp. party No. 2) and the Controller of Examinations have appeared and filed counter-

affidavit to the effect that the petitioner was not eligible to appear at the compartmental examination, and therefore, the authorities have not issued the certificate to him.

4. Petitioner's stand is that after having declared him to have come out successful in the examination as revealed from the Combined Mark List and Result-sheet, issued to him as back as in 1982, copy of which is annexed as Annexure-2 to the writ application, it is not open to the University after more than a decade to take a stand that the petitioner could not have appeared as a compartmental candidate.

The stand of the University is that the principle of promissory estoppel does not apply because petitioner is supposed to have known that he was ineligible to appear as a compartmental candidate, in view of the provision in the Regulation that the candidates who have secured pass marks in aggregate, i. e., 324 are allowed to appear in the subjects in which he or she failed as a compartmental candidate. In the instant case the petitioner has secured 314, marks, and therefore, had not secured the pass marks in aggregate. Reference is made to the Orissa Universities First Statute, 1990 to submit that the University authorities are authorised to cancel the result of the petitioner's examination, and debar him from getting the provisional certificate.

5. Applicability of the principle of promissory estoppel would depend upon certain facts. It is not necessary to highlight them in the present case. The petitioner has been engaged as an Assistant Teacher in Swam Panchayat Samity M. E. School under Patna Block of Keonjhar district and has been posted on transfer at Golla U. G.M. E. School, Champua, in Keonjhar district. Certificate was necessary for upgradation of his service, and in order to enable him to take B. Ed. training for which the petitioner asserts to have taken necessary steps, as evident from the affidavit filed by the petitioner on 10-11-1995. In view of the peculiar background of this case, the question whether the University authorities have power to cancel the result of a candidate and debar him from getting the provisional certificate does not arise here because such action has not been taken. It is not open to the University to take that stand after twelve years, for the first time in the counter-affidavit, about ineligibility of the petitioner to appear as a compartmental candidate. In that view of the matter, we reject the University's stand and direct that provisional certificate be issued to the petitioner. The certificate be issued to the petitioner within two weeks from the date of receipt of our order. Requisites for communication of our order shall be filed within , three days.

The writ application is disposed of accordingly.

P.C. Naik. J.

I agree.