
(1997) 09 OHC CK 0036

In the Orissa High Court

Case No : Original Jurisdiction Case No. 4788 of 1997

Sasmita Palei

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 30-09-1997

Acts Referred:

Citation : (1997) 2 OLR 441

Hon'ble Judges : R.K. Patra, J;Pradipta Ray, J

Bench : Division Bench

Advocate : Manoj Mishra, U.C. Pattnaik, P.K. Das, B. Mishra, L. Sarangi, P.K. Mohanty, D.K. Pattnaik and B. Mohapatra, for the Appellant; R.K. Mohanty, Additional Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

R.K. Patra, J.—The petitioner having been denied admission to the 1st year Diploma in Engineering under sports quota has filed this application praying for appropriate relief.

2. The petitioner passed High School Certificate Examination in the first division in April, 1993, The State Government in the appropriate department have been extending concession in the matter of admission to different educational institutions to the persons participating in sports. The case of the petitioner is that she represented Orissa State team in the VIth National (Senior) ATYA PATYA Championship held in New Delhi in July, 1994. She accordingly applied for admission in 1st Year Diploma in Engineering during the Session 1994-95 under the sports quota, she was wrongly not selected from the sports quota. Being aggrieved by such refusal, the petitioner along with one Ritan Kumar Pradhan filed a writ application bearing O.J.C. 6354 of 1994. This Court without going into the merit of the case, by order dated 19.6.1996 disposed of the matter because by that time, the academic session for which the petitioner applied, had already elapsed. Following the publication of advertisements for admission to the Diploma in Engineering for the Session 1996-97, the petitioner again made

application for admission under sports quota. As she did not receive any intimation from the opposite parties, she along with Ritan Kumar Pradhan filed O.J.C. No. 8442 of 1996 praying for a direction to the opposite parties to give them admission under sports quota for the 1st year Diploma in Engineering. During the pendency of the said case, Ritan Kumar Pradhan was admitted in the 1st year course. The opposite party No. 4 filed an affidavit stating that the application of the petitioner for admission was rejected as she was found over-aged. This Court on consideration of the sports certificate, passed orders on 10.1.1997 in the aforesaid O.J.C. 8443 of 1996 to consider the question of relaxing the age or condone the over-age of the petitioner on her making representation for the purpose. The petitioner, accordingly, made representation. The Government in the Industries Department letter No. 5831 dated 6.3.1997 at Annexure-14 rejected the representation by observing as follows :

"The petitioner is overage by one year, one month and sixteen days. Her case for condonation of overage would have merited consideration had she qualified for admission during 1994-95 on the basis of weightage for sports. However this is not the case. The request of the petitioner for condonation of overage is therefore rejected....."

3. The opposite party No. 4. Vice-Chairman, Central Admission Committee for Admission to Engineering Schools and Polytechnics has filed counter affidavit in the present case.

4. On perusal of the Information Brochure for admission to Engineering Schools at Annexure-6, it appears that certain categories of sportsmen are entitled to be admitted irrespective of the marks secured by them subject to eligibility. We may extract the relevant portion of the Information Brochure to drive home the point which reads thus :

"Special Consideration"

Weightage of marks are allowed over and above the total effective marks secured in case of the following categories of students :

(i) xxx xxx (ii) (a) xxx xxx (ii) (b) The following categories of sportsmen will be admitted irrespective of marks secured by them subject to eligible.

(a) Those who.....

(b) Those who.....

(c) Those who.....

(d) Those who have represented the Orissa State team approved by State level bodies, in senior group in any National Competition (L.N. 27330/EYS. dt. 30.06.1981).

(iii) xxx xxx

5. The clear and categorical case of the petitioner is that she having represented

the Orissa State team is the VIth National (Senior) ATYA PATYA Championship held in New Delhi from 22nd to 24th July, 1994 which is a recognised national event is entitled to be admitted in the 1st year Diploma in Engineering under Sports quota.

When this matter was listed on 4.9.1997 before us, we passed order on that day calling upon the learned Additional Government Advocate to get necessary information as to whether the National ATYA PATYA Championship is a recognised national event. Shri R.K. Mohanty, learned Additional Government Advocate has produced before us on 19.9.1997 the Xerox copy of letter No. OAPA/99/97 dated 15.9.1997 issued by the Secretary, Orissa ATYA PATYA Association addressed to the Principal, Bhubanananda Orissa School of Engineering, Cuttack. We may extract relevant part of the said letter :

"Regarding Sasmita Palai, I have already informed you by our letter No. OAPA/79/94 dated 10.9.1994 that she had represented Orissa State team in the 6th National (Senior) Atya Patya Championship held in Talkatora Indoor Stadium. New Delhi from 22nd to 24th July, 1994.

The certificate of the said National Championship was awarded by the Atya Patya Federation of India which is recognised by the Department of Youth Affairs and Sports, Government of India. "Atya Patya is a recognised national event".

6. From the aforesaid letter dated 15.9.1997 of the Secretary, Orissa Atya Patya Association, it is crystal clear that "ATYA PATYA" is a recognised national event and the petitioner represented the Orissa State team in the VIth National (Senior) ATYA PATYA Championship held in New Delhi in July, 1994. In view of the aforesaid certificate in favour of the petitioner, we have no hesitation to hold that she was/is eligible to be admitted under the sports quota mentioned in the Information Brochure. The State Government while considering the representation of the petitioner failed to take note of para (ii) (b) (d) of the "Special Consideration" mentioned in the Information Brochure. Due to non-consideration of such vital and relevant aspect the decision of the Government is vitiated.

7. In the result, the decision of the State Government communicated in the impugned letter at Annexure-14 is hereby quashed. There is no other ground of ineligibility of the petitioner except that she is found to be over-aged by one year, one month and sixteen days as noted by the Government at Annexure-14. The Government, in fact, was inclined to condone the overage of the petitioner but the discretion was not invoked in her favour as she was not found entitled for admission from the sports quoata. The ground ascribed by the Government in the impugned decision has been found by us to be non-existent. Accordingly, we direct the opposite parties to admit the petitioner forthwith to the 1st Year Diploma in Engineering by condoning her over-age.

May it be noted that by interim order No. 7 dated 4.9.1997, one seat in the 1st year Diploma in Engineering Course from sports quota was directed to be kept

vacant until further orders.

8. The writ application is allowed. There would be no order as to costs.

Pradipta Ray, J.

9. I agree.