
(2015) 05 RAJ CK 0117
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9605 of 2014

Sharda Chaudhary

APPELLANT

Vs

Maharaja Gangasingh University and Others

RESPONDENT

Date of Decision : 08-05-2015

Acts Referred:

Citation : (2016) 1 CDR 51

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Shankar Rajpurohit, for the Appellant; D.D. Chitlangi and Kuldeep Mathur, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Arun Bhansali, J.

1. This writ petition has been filed by the petitioner aggrieved against the communication dated 22.04.2014 (Annex.-8) and resolution No. 3 dated 24.07.2010 (Annex. 11) and has sought a direction to admit the petitioner to Ph.D. on the basis of her qualification of M.A. (Education).

2. The facts in brief may be noticed thus: the petitioner obtained qualification of M.A. (Education) from Jain Vishva Bharti University, Ladnun and is presently working on the post of Senior Teacher (Science). It is claimed that as the petitioner had obtained more than 55% marks in the subject "Education", the petitioner was eligible for appearing in M.Phil/Ph.D. Combined Entrance Test ("MPCET") in terms of Ordinance 124 of the respondent-University. The petitioner appeared and was successful in the written examination and was called for interview; the petitioner was also declared successful in the interview and was asked to submit the required fees and documents; the petitioner accordingly deposited the requisite fee on 23.01.2014 and was granted No Objection Certificate by the Director, Secondary Education, Rajasthan, Bikaner for pursuing her Ph.D. It is submitted that vide communication dated 22.04.2014 (Annex.-8),

the Demand-Draft and Application Form of the petitioner was returned back, inter alia, indicating that the Equivalence Committee has taken a decision that the M.A. (Education) is not equivalent to M.Ed. and since the petitioner does not possess the required qualification of M.Ed., the Demand-Draft and Application Form were being returned back to the petitioner.

3. The petitioner preferred an Appeal before the Chancellor and the respondent-University submitted its factual report, inter alia, claiming that in the Meeting of Equivalence Committee held on 24.07.2010, wherein though the Dean of Education Faculty was not present, however, apart from Vice-Chancellor, the Dean from other faculties were available and as the Dean of Education Faculty has no objection ruled that M.A.(Education) was not equivalent to M.Ed.; it is claimed that the petitioner submitted rejoinder to the factual report submitted by the respondent-University and submitted another representation on 12.11.2014 seeking an early decision in this regard.

4. It is alleged that the representation made by the petitioner was not decided and the respondent-University has issued another Notification, inviting applications for the MPCET-2014 and in the said Advertisement, the eligibility for admission to M.Phil./Ph.D. has been indicated as M.Ed. It is, inter alia, claimed by the petitioner that she has already clear MPCET-2013, was eligible for admission to Ph.D. as she possesses requisite qualification as per Ordinance 124, which was/is in force at the relevant point of time, she possesses the postgraduate Degree in M.A. (Education) and has secured more than 55% marks, was permitted to appear in the examination, granted admission and she deposited her fees also and, therefore, the action of the respondents in this regard is wholly incorrect.

5. With reference to the Notification for MPCET-2014 and Ordinance 124, it is claimed that there is no condition of having qualification of M.Ed. for admission to Ph.D. for Education; it is also claimed that the resolution passed by the Equivalence Committee dated 24.07.2010 is against the NCTE Regulations, 2009, which are binding on all the Universities, wherein M.A. (Education) is recognized for admission to Ph.D. Course; the Meeting of Equivalence Committee held on 24.07.2010 is also illegal as the Dean of Education Faculty was not present; it is also claimed that the qualification of M.A. (Education) is recognized by all other Universities and on that count also, the petitioner was entitled to relief as noticed hereinbefore from this Court.

6. A reply to the writ petition has been filed by the respondents, inter alia, indicating that the Ordinance 124 of the respondent-University has been clarified vide Meeting of the Equivalence Committee dated 24.07.2010 headed by the Vice-Chancellor, whereby it was concluded that candidates having the professional degree of M.Ed. shall only be entitled for admission to Ph.D. Programme in Education and the candidates holding degree of M.A. (Education) have been held not entitled to admission to Ph.D. It is submitted that the said aspect has been affirmed by the Equivalence Committee of the University in its

Meeting held on 29.09.2014 giving reasons for not equating M.A. (Education) with M.Ed. for registration for Ph.D. in Education.

7. Reliance has been placed on the MPCET-2014 Notification, indicating that eligibility for admission to M.Phil./Ph.D. in Education is M.Ed. The stand has been reiterated that the petitioner is ineligible as she doesn't held degree of M.Ed. and the Ordinance 124 of the respondent-University has been clarified by the Equivalence Committee of the University vide its Meeting dated 24.07.2010.

8. The petitioner filed rejoinder and questioned the resolution dated 29.09.2014 passed by the Equivalence Committee, inter alia, indicating that the same was not applicable to her as she had already clear MPCET-2013 and she possesses qualification for admission to Ph.D. as per Ordinance 124, which was in force at the relevant point of time. Further, documents have been placed to indicate that the different Universities have indicated the criteria for admission to Ph.D. in Education as M.Ed. or M.A. (Education) and it is prayed that the writ petition filed by the petitioner be allowed.

9. Vide order dated 27.03.2015, the respondents were directed to produce the provisions regarding Constitution of Equivalence Committee as it was noticed that the Meeting dated 29.09.2014 (Annex.-R/1) was held in absence of the Vice-Chancellor.

10. An additional affidavit has been filed by the petitioner, wherein Ordinance 330 and 331 has been produced, which pertains to equivalence of examinations.

11. The respondents have also produced the note-sheets pertaining to the holding of the Meeting of the Equivalence Committee dated 29.09.2014 and have claimed that though the Vice-Chancellor did not attend the Equivalence Committee Meeting dated 29.09.2014, she has approved the Minutes of the Equivalence Committee Meeting.

12. It is submitted by learned counsel for the petitioner that a look at the Ordinance 124, which pertains to eligibility of Research Scholar and Supervisor, the Notification dated 28.09.2013, the subsequent conduct of the University in permitting the petitioner to appear in MPCET-2013; calling for interview; granting provisional admission to Ph.D. clearly indicates that the petitioner was eligible for admission to Ph.D. in Education on the basis of her M.A. (Education) Degree. The reliance placed on the Equivalence Committee Meeting dated 24.07.2010 is baseless as the same was not even attended by the Dean of Faculty of Education; further, the Review Meeting dated 29.09.2014 pursuant to the directions of the Chancellor was also bad for lack of requisite constitution, inasmuch as, the Vice-Chancellor was absent and the ex post facto approval granted by her, is of no consequence and even otherwise the said decision having been taken after the petitioner had appeared in MPCET-2013, cannot apply retrospectively. It is further submitted that the various Institutions granting admission for Ph.D. have recognized M.A. (Education) for admission to Ph.D. in Education and, therefore, there is apparently no reason for the respondent-

University to take a different view on a wholly non-existence basis. It is prayed that the respondents may be directed to grant admission in Ph.D. in Education based on her performance in MPCET-2013, which she had successfully passed.

13. Learned counsel for the respondents vehemently opposed the submissions made by learned counsel for the petitioner. It was submitted that Ordinance 124 was clarified by the resolution passed by the Equivalence Committee, whereby it was decided that candidates having degree of M.A. (Education) are not eligible for admission to Ph.D. in Education and only the candidates who had done M.Ed. would be eligible for the said course. It is further submitted that the said aspect was reiterated after the Equivalence Committee reviewed its earlier decision in its Meeting dated 29.09.2014 based on the directions issued by the Chancellor, wherein the Meeting was attended by the Dean of Education Faculty also. Therefore, the petitioner cannot seek any relief from this Court. It is further submitted that in the MPCET-2014, the qualification indicated is M.Ed. and, therefore also, the petitioner is not entitled to seek any relief.

14. Regarding the Constitution of Equivalence Committee Meeting dated 29.09.2014, it was submitted that though the Vice-Chancellor did not attend the Meeting, the Minutes of Meeting have been approved by her and, therefore, it cannot be said that the decision taken at the Meeting dated 29.09.2014 is vitiated on any count. It was prayed that the writ petition filed by the petitioner be dismissed.

15. I have considered the rival submissions and have perused the material placed on record.

16. The Ordinance 124 of the respondent-University relating to Ph.D. Degree provides as under:-

"O-124. A. Eligibility of Research Scholars and Supervisors

(1) A candidate for admission to the degree of Doctor of Philosophy (Ph.D. in the Faculties of Arts, Commerce, Education, Fine Arts, Music and Dramatics, Law Management Studies, Science and Social Science must have obtained the Master's degree (not the Diploma) with at least 55% marks at the postgraduate examination of the University in subject or any allied subject in which he/she wishes to pursue research. If the candidate secures less than 55% marks at the postgraduate examination but secures a second division at postgraduate as well as at degree level, he/she will be eligible for admission in the degree of Ph.D. However, in exceptional cases relaxation in minimum eligibility condition may be given by the Vice-Chancellor in consultation with the subject expert."

17. The eligibility indicated is Master's degree (not the Diploma) with at least 55% marks at the postgraduate examination of the University in subject or any allied subject in which the candidate wishes to pursue research. The requirement indicated is Master's degree.

18. The Notification 1/2013 dated 28.09.2013 for MPCET-2013 also indicated the

eligibility as contained in Ordinance 124 and there was no specific mention regarding either the requirement of M.Ed. or that candidates having M.A. (Education) would not be eligible.

19. In contrast to the Notification for MPCET-2013, if the Notification for MPCET-2014 is compared, the eligibility has been indicated as under:-

"A candidate for admission to the degree of Doctor of Philosophy (Ph.D.) in the Faculties of Arts, Commerce, Education, Fine Arts, Music and Dramatics, Law, Management Studies, Science and Social Science must have obtained the Master's Degree (not the Diploma with at least 55% marks at the postgraduate examination of the University in subject he/she wishes to pursue research. Eligibility for admission to M.Phil/Ph.D. in Environment Science is Post-Graduate degree with Environment/Life Science/Geology/Chemical Science. Eligibility for admission to M.Phil./Ph.D. in Education is M.Ed. and for Commerce is M.Com. If the candidate secures less than 55% marks at the postgraduate examination but secures a second division at postgraduate as well as at degree level, he/she will be eligible for admission to the degree of Ph.D."

(Emphasis Supplied)

20. Wherein now the eligibility for admission in M.Phil./Ph.D. in Education is prescribed as M.Ed., which necessarily means that in the MPCET-2013, the eligibility was not restricted to M.Ed.

21. The respondents have placed strong reliance on the Minutes of the Equivalence Committee Meeting dated 24.07.2010, wherein the Equivalence Committee resolved that M.A. (Education) be not treated as equivalent to M.Ed., as M.A. (Education) is a academic degree and M.Ed. is a professional degree after B.Ed.

22. The jurisdiction of the Equivalence Committee and its composition has been indicated in Ordinance 330 and 331, which reads as under:-

"O. 330: Applications from the Universities, Boards or other Agencies conducting examinations for recognition of their examinations as equivalent to the corresponding examinations of the University, shall be considered by the Equivalence Committee. A case for granting equivalence to the Examinations/Degrees/Diplomas/Certificates of an institution which has not applied for the same may also be referred to the Equivalence Committee for consideration. In the case of the statutory Indian Universities/Boards, provisional recognition may be given for a specified period pending detailed examination of the relevant Rules, Regulations and syllabi in respect of the examination concerned where after a final decision about equivalence shall be taken by the University.

O. 331: The Equivalence Committee shall consist of:

(1) The Vice-Chancellor

(2) Deans of Faculties"

23. A bare reading of the Ordinance 330 indicates that the applications from the Universities, Boards or other Agencies conducting examination for recognition of their examinations as equivalent to the corresponding examinations of the University, shall be considered by the Equivalence Committee and, therefore, apparently the present issue, which pertained to equivalence of M.A. (Education) and M.Ed. did not arise in light of the clear stipulation in Ordinance 124 and essentially could not have been placed before the Equivalence Committee. Even otherwise, from the composition of the Committee, it would be seen that the Dean, Faculty of Education was not present in the Meeting dated 24.07.2010 and, therefore, any deliberation/decision in this regard can only be termed as deficient and not in terms of the fundamental requirement of an informed decision for the purpose of reaching to a reasonable conclusion and, therefore, the submissions made by counsel for the petitioner regarding the validity of the resolution dated 24.07.2010 of the Equivalence Committee deserves to be upheld.

24. As noticed hereinbefore, the respondent-University though have not denied the fact that the Ordinance 124 did not provide for M.Ed. as eligibility for Ph.D. in Education, but relied on the resolution dated 24.07.2010 of the Equivalence Committee for denying admission to the petitioner. Having come to the conclusion that the resolution dated 24.07.2010 passed by the Equivalence Committee in absence of the Dean, Faculty of Education is deficient, the denial of the petitioner is based on Equivalence Committee Meeting dated 24.07.2010 apparently cannot be sustained.

25. The petitioner on rejection of her candidature, filed an appeal before the Chancellor and on direction of the Chancellor to reconsider the decision dated 24.07.2010, a Meeting dated 29.09.2014 of the Equivalence Committee was held, which was attended by four Deans including Dean, Faculty of Education.

26. As noticed hereinbefore, under Ordinance 331, the Equivalence Committee consists of the Vice-Chancellor and Deans of the Faculties and in the Meeting dated 29.09.2014, the Vice-Chancellor was not present. The Meeting of the Equivalence Committee, therefore, was not in accordance with the requirements of Ordinance 331 besides the fact that as noticed hereinbefore whether such aspect at all could be considered under Ordinance 330 by the Equivalence Committee is quite doubtful.

27. The respondent-University has produced the note-sheets leading to the Meeting dated 29.09.2014 of the Equivalence Committee, wherein at N-224, it has been noticed that the Meeting was scheduled to be held on 28.08.2014, which was adjourned to 02.09.2014 and whereafter to 08.09.2014, however, as the Vice-Chancellor was busy with other administrative work, the Meeting could not be held; whereafter, the same was proposed to be held for 29.09.2014, as noticed in the Meeting dated 29.09.2014, the Vice-Chancellor was not present and the Meeting was held; whereafter in the note-sheet N-233, the Minutes for approval by the Vice-Chancellor were produced and were signed and approved by

her vide N-237. The said note-sheets clearly indicate that the presence of the Vice-Chancellor though was necessary as earlier the Meetings were postponed, whereafter the Meeting dated 29.09.2014 was held in her absence and the Minutes were approved by her, the ex post facto approval granted by the Vice-Chancellor to the Minutes of a Meeting, which she did not attend, cannot cure the defect in the Meeting, which was required to be attended by the Vice-Chancellor and, therefore, even the Meeting dated 29.09.2014 is of no consequence and the same also cannot by itself alter/clarify the requirements of the Ordinance 124 of the University, which essentially as noticed hereinbefore did not require M.Ed. as the only eligible degree for Ph.D. Course in Education.

28. The petitioner has produced certain documents pertaining to the eligibility as prescribed by other Universities, wherein the eligibility has been indicated as M.A. in Education/M.Ed., which inter alia, pertains to University of Calcutta, Andhra University, Pondicherry University, Banaras Hindu University, Punjab University and a communication from Dy. Secretary, NCTE addressed to the Dy. Director, Babasaheb Ambedkar Institute of Technology and Management, New Delhi indicating the clarification for recruitment in Education, wherein also the M.Ed./M.A. (Education) has been provided.

29. In view of the fact that various Universities have indicated M.Ed./M.A. (Education) as eligibility for its courses, apparently there doesn't appear to be a wholly unjustified and/or unsustainable preposition put forward by the petitioner so as to be rejected in a wholly cursory manner by the respondent-University as has been done vide resolution of the Equivalence Committee Meeting dated 29.09.2014.

30. In view of the forgoing discussions, the writ petition filed by the petitioner is partly allowed. The action of the respondent-University in rejecting the candidature of the petitioner vide communication dated 22.04.2014 (Annex.-8) cannot be sustained and the same is, therefore, set aside. The Constitution of the Equivalence Committee while passing of the resolution dated 24.07.2010 and 29.09.2014 being wholly deficient as discussed hereinbefore cannot be relied on by the respondent-University for seeking M.Ed. as the only eligible degree for Ph.D. in Education and the respondent-University is directed to consider the candidature of the petitioner in light of the discussion made hereinbefore and, if otherwise found eligible, to grant her admission in Ph.D. in Education.

31. No order as to costs.