

(1990) 03 GAU CK 0001
In the Gauhati High Court
Case No : Civil Rule No. 315 of 1989

Shri Subhajit Sengupta

APPELLANT

Vs

The State of Tripura and Others

RESPONDENT

Date of Decision : 28-03-1990

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1990) 2 GLR 179

Hon'ble Judges : S.N. Phukan, J;J.M. Srivastava, J

Bench : Division Bench

Advocate : P.K. Goswami, C. Chakraborty, K.N. Bhattacharjee and H.K. Bhattacharjee, in Civil Rule No. 315 of 1989 and A.M. Lodh, H. Lodh and H.K. Bhattacharjee, in Civil Rule No. 9 of 1990, for the Appellant; J.P. Bhattacharjee, D.N. Konwar, A. Gogoi, H. Roy, M.C. Deb Roy and D. Choudhury, in Civil Rule No. 315 of 1989 and M. Majumder, Government Advocate in Civil Rule No. 9 of 1990, for the Respondent

Judgement

S.N. Phukan, J.—By this common order we propose to dispose of two Civil Rules, namely, Civil Rule No. 315 of 1989 and Civil Rule No. 9 of 1990. The Civil Rule No. 315 of 1989 has been registered on a petition filed under Article 226 of the Constitution by a student WHO wants to be admitted to the Tripura Engineering College and Civil Rule No. 9 of 1990 has been tiled by two such students.

2. We have heard Mr. A.M. Lodh and Mr. G. Chakraborty, learned Counsel for the Petitioners and Mr. M.C. Deb Roy and Mr. D. Choudhury learned Counsel for the Respondents. We have also been assisted at our request by Sri Section Barman Roy, learned Advocate General.

3. This Court by judgment and order, passed in the Central Board of Secondary Education Guardians Committee represented by its Secretary Sri Nalini Kumar Saha v. The State of Tripura and Ors. (1988) 2 G.L.R. 253 directed the Respondents inter alia, to hold Joint Selection Examination for selection of candidates from the year 1989 onwards and accordingly the State Govt. framed

set of regulations for the purpose, namely, Examination Regulation Part-I of the Tripura Board of Joint Entrance Examination (TBJEE), 1939 hereafter referred as the Regulation and duly notified in the gazette. Notice was published by the Chairman of the Board who is also the Principal of the Tripura Engineering College calling for applications for the said joint examination. This notice has been annexed as Annexure-A. 1 to the petition All the three writ Petitioners duly appeared at the said Joint Entrance Examination. The Petitioner in Civil Rule No. 315 of 1989 secured 77th position and in other Civil Rule the 2 writ Petitioners secured position No. 112 and 166. The writ Petitioner in Civil Rule No. 315 of 1989 was informed about his selection for admission to the Tripura Engineering College and he was directed to report on 8.8.89 vide Annexure-7 to the petition. The Petitioner went accordingly but was directed to report to the Chairman of the Board" (TBJEE) due to some "technical confusion". In the counter filed in Civil Rule No. 9 of 1990 in para 9 the Respondents admitted the position secured by the Petitioners in the Joint Entrance Examination and also that candidates who secured less marks in the Joint Entrance Examination were selected for admission in the Tripura Engineering College for it was stated that candidates upto No. 179 had been admitted. It was however contended that the Petitioners could not be admitted in the Tripura Engineering College as they had not secured 50% marks in aggregate in Physics, Chemistry and Mathematics in the Higher Secondary Examination as required by the norms adopted by the Tripura Engineering College. As said before, it is admitted by the Respondents that candidates getting position upto Sl. No. 179 in the merit list in the said examination had been admitted.

4. The only question that needs our consideration is that whether the qualifications required for admission to the Tripura Engineering College prescribed earlier, after the Regulation was made is still in force. The said qualification is available at Appendix -- XII to the Handbook on Opportunities of Higher Education for Students of Tripura published by the Directorate of Higher Education in June, 1988. In the said Appendix--XII under heading Technical Education, we find that there are as many as 16 items including "Method of Selection". Item No. 10, "method of selection" runs as follows:

As per guidelines of the Govt. from time to time. For the present the selection is made on the basis of merit in the aggregate marks of Physics, Chemistry and Mathematics at the qualifying Examination, Candidates are required to meet the Medical Standard.

Under Item No. 7 Entrance requirement laid down is 50% of marks in aggregate of Physics, Chemistry and Mathematics in H.S. (10-2) Examination (Relaxation of 10% and 5% of marks for S.T. and S.C. respectively).

5. It is a settled principle of law that when a particular provision of a notification or a regulation is read, the entire notification has to be read and taken into consideration. 50% marks as entrance requirements coming under item No. 7 prescribed by the Govt. of Tripura under whose management. Tripura

Engineering College comes. Should be read with the "method of selection" in item No. 10. In the case in hand as stated earlier the selection was not on the basis of marks obtained in Higher Secondary Examination, but as provided in the Regulation -- according to the marks in the Joint Entrance Examination. In view of the regulation for the Joint Entrance Examination wherein no such minimum marks at Higher Secondary School examination are prescribed, we bold that by implication the provision of minimum of 50% marks in aggregate for admission proscribed earlier stands modified or amended. We make it clear that this modification or amendment will apply only in the case of State of Tripura where the procedure of Joint Entrance has been prescribed and followed.

6. As this Engineering College is also meant for some other States of N.E. Region, the Engineering College shall follow the norms of minimum 50% marks in respect of other Suite, unless it is amended by the Government by suitable regulation. In this connection, we may like to point out that in the prospectus of the Regional Engineering College, Silchar for the year 1988-89 wherein the method of selection in respect of students, where joint admission tests are conducted, has been laid down. In the counter filed by the Respondents it has been stated that in case of some Universities minimum qualifying marks has been laid down and our attention has been drawn to Annexure -- C. 1 to the counter filed in Civil Rule No. 315 of 1989, From this Annexure we find that Govind Ballabh Pant University of Agriculture and Technology has laid down qualifying marks of 60% in Physic, Chemistry und Mathematics etc. in respect of Intermediate/equivalent examination. We may mention that this was done by as University which is a Statutory authority. But this is not applicable in the case in hand as the norms for Tripura Engineering College of 50% minimum marks were prescribed by Government which has now made the Regulation. It is needless to say that if a candidate bat qualified in the Joint Entrance Examination conducted in Tripura in may be sent to the above University only if has obtained 60% or equivalent marks in aggregate. But this procedure is not applicable in case of the Tripura Engineering College.

7. In the result, both the petitions are allowed and the rule made absolute. We confirm the interim order dated 5.10.89 pasted in Civil Rule No. 315 of 1989. We further direct the Respondent in particular the Respondent No. 3 i.e. the principal, Tripura Engineering College to admit the Petitioner, namely, Subhajit Sengupta in Civil Rule No. 315 of 1989 with effect from 11.10.89 pursuant to the orders dated 5.10.89 passed by this Court and also the Petitioners namely, (1) Shri Diptiman Chattapachya and (2) Shri Ratan kr. Sharma in Civil Rule No. 9 of 1990 immediately.

With the above directions, both the Civil Rules are disposed of. No costs.