
(2016) 01 RAJ CK 0046
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10855/2015

Shweta

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 06-01-2016

Acts Referred:

Citation : (2016) 01 RAJ CK 0046

Hon'ble Judges : Alok Sharma, J.

Bench : Single Bench

Advocate : Gajendra Singh Rathore, for the Appellant; Vagish Singh, for the Respondent

Final Decision : Allowed

Judgement

Alok Sharma, J.—1. The case at hand is a peculiar one where the petitioner having written the PTET-2014 examination and admittedly passed therein, then inducted into the B.Ed. course 2015 is now sought to be excluded from the benefit thereof and disallowed from writing the B.Ed. examination 2015 despite having completed one year course of study on the ground of her alleged ineligibility to write the PTET-2014 examination and lack of right to pursue the B.Ed. Course. Ineligibility with its consequence is sought to be attributed to the petitioner on the ground that her Part-I year marks in the B.Com. course obtained by her while reading at Osmania University prior to her migration/transfer to the University of Rajasthan in B.Com. Part-II cannot be taken into reckoning for determination of her aggregate marks in the qualifying examination (B.Com.) as mandated by the PTET-2014 guidelines/instructions.

2. The facts of the case are that the petitioner got herself enrolled as a regular student in B.Com. Part-I at the Kasturba Gandhi Degree & P.G. College for Women under Osmania University. Subsequent to having passed B.Com. Part-I examination from the aforesaid University, the petitioner was allowed to migrate to the University of Rajasthan and admitted to B.Com. Part-II. She therefore was enrolled with the University of Rajasthan and admitted as a regular student in

the Kanoria Mahila Mahavidhyalaya, Jaipur. She then passed the B.Com. Part-II and Part-III examination from the University of Rajasthan.

3. The petitioner thereafter applied for the Pre Teachers Education Test, 2014 (PTET-2014) for being admitted to B.Ed. Course. PTET-2014 guidelines provided that for being eligible for writing the said examination, the candidate should have obtained 50% marks in the aggregate in the qualifying examination. The petitioner was admitted to the said examination 2014. Having passed PTET-2014 examination and being meritorious, the petitioner was allotted the Meera Keshav Mahila TT College and pursued the entire one year B.Ed. course. At the end of the year's study she filled up her examination form. However, she was communicated vide letter dated 23.05.2015 that she was deficient in eligibility for the PTET-2014 examination, wrongly allowed to write the said examination and then had been wrongly admitted to the B.Ed. Course 2015. Therefore she could not be allowed to write the B.Ed. examination, 2015. The specific reason alleged was that the petitioner had obtained below 50% marks in the aggregate in B.Com. course as computed on the basis of her B.Com. Part-II and Part-III marks obtained while she was admitted in the University of Rajasthan but excluding the B.Com. Part-I marks she had obtained as student of B.Com. Part-I while with the Osmania University. The reason was attributed to Ordinance 177 of the University of Rajasthan Ordinances which reads as under:

"Ordinance: 177. Candidates who have passed the Part-I Exam in Arts, Social Science and Commerce excluding Agriculture, Home Science and Sanskrit Studies from any University recognized for the purpose by the Syndicate or from an autonomous College established by statutory provisions may be permitted to appear at Part-II Exam, subject to the following:

(a) Such candidates will not be required to appear in any compulsory/core/optional subject of Part-I Exam of the University. However, they will be required to offer the same subjects which they have offered for Part-I Examination.

(b) The division of such candidates shall be worked out on the basis of marks obtained by them at the Part-II and Part-III Examinations only and a mention shall be made in their Degree that the candidate obtained the Degree after two years study of the course in the University".

4. Hence this petition.

5. Mr. G.S. Shekhawat, appearing for the petitioner submits that the petitioner had obtained 810 marks out of 1600 in the aggregate in the three year B.Com. course which works out to 50.63% and hence as per the PTET-2014 guidelines, she having obtained more than 50% marks in aggregate in the qualifying examination, she was eligible and the impugned communication dated 23.05.2015 is wholly misdirected and arbitrary. It was submitted that the petitioner was allowed to migrate from Osmania University to the University of Rajasthan on the basis of successfully completing her B.Com. Part-I therefrom and her performance in the said examination could not be jettisoned altogether

as if it was not reflective of her academic ability. It was submitted that Ordinance 177 of the University of Rajasthan merely entails that for the purpose of the degree issued by the University of Rajasthan, following the migration/transfer of a student after having completed Part-I of B.A./B.Com. course in another University, the division of such candidates for the purpose is to be determined on the basis of performance in Part-II and Part-III of the graduation course. Counsel submitted that Ordinance 177 cannot be extrapolated to the PTET-2014 guidelines as no such provision has been made and the guidelines only mandate that the candidate applying to write the said PTET-2014 exam should have obtained 50% marks in aggregate in the qualifying examination. Counsel submitted that it can be nobody's case that B.Com. examination written by the petitioner was only a two years course. Admittedly it was a three years course and for the purpose of determination of her percentage, except for the degree issued under Ordinance 177 of the University of Rajasthan, her performance in the three years, Part-I at Osmania University and Part-II and Part-III at University, has to be necessarily taken into consideration. It was submitted that even otherwise the case at hand is a hard case and in the event the petitioner after having successfully completed a three years B.Com. course, passed PTET-2014 Examination and thereafter read for one year in B.Com., course, were to be disallowed from writing the B.Ed. examination 2015, it would prejudice her gravely and be most unjust. Counsel submitted that in the circumstances, the communication dated 23.05.2015 be quashed and set aside qua the petitioner and it be declared that the petitioner was eligible in terms of PTET-2014 guidelines having secured over 50% marks in the aggregate in the qualifying examination (B.Com.) constituted of three parts albeit one of which was completed at Osmania University and the other two from the University of Rajasthan.

6. Mr. Vagish Singh, appearing for the University of Rajasthan has submitted that in consonance with Ordinance 177 of the University of Rajasthan the petitioner's aggregate percentage in the qualifying examination (B.Com. in this case) was to be worked out only on the basis of marks obtained by her in Part-II and Part-III examination in view of the fact that she had migrated from Osmania University to University of Rajasthan after having completed B.Com. Part-I therefrom. It was submitted that taking into account the petitioner's performance in Part-II and Part-III of B.Com. examination it worked out to be 589 marks out of 1200 marks i.e. 49.08%. The petitioner thus did not have 50% marks in the qualifying examination i.e. graduation and hence was not eligible to write PTET-2014 examination. Therefore her admission to the B.Ed. course on the basis of her performance in the said examination was wholly without authority of law. It was submitted that in the circumstances, the petitioner is not entitled to write the B.Ed. examination, 2015 for reason of her underlying ineligibility.

7. Heard. Considered.

8. It is an admitted fact that the petitioner passed her B.Com. Part-I examination

from Osmania University. It is also an admitted fact that in view of the governing Ordinances of the University of Rajasthan, the petitioner was allowed to migrate to University of Rajasthan for the purpose of continuing with the B.Com. Course and completing Part-II and Part-III thereof. It is nobody's case that the B.Com. Course in the University of Rajasthan is a two years course. It is admittedly a three years course. It is also an admitted position that the petitioner had passed Part-II and Part-III examination from University of Rajasthan after having been admitted to B.Com. Part-II on the strength of her having passed B.Com. Part-I from Osmania University. It is indeed true that Ordinance 177 of the University of Rajasthan does provide that in respect of a student who seeks migration after having completed Part-I of her examination from another University, her division would be worked out on the basis of marks obtained at the Part-II and Part-III examination only conducted by the University of Rajasthan and a mention would be so made in the degree that the candidate obtained it after two years study of the course in the University of Rajasthan. I am however of the considered opinion that Ordinance 177 will be limited in its operation for the purpose of awarding of degree by the University and cannot be extrapolated for determination of the eligibility of candidate writing the PTET examination 2014. Under the PTET guidelines 2014 it was provided that 50% marks in the aggregate in the qualifying examination would be a pre-condition of eligibility. The petitioner has passed B.Com. which is a three year course. In the circumstances, the petitioner's performance in each of the three year will have to be taken into account for working out her percentage. So taken, the petitioner admittedly has obtained over 50% marks in the aggregate in qualifying examination. This interpretation is not only warranted on the plain words of PTET guidelines 2014 whereunder Ordinance 177 of the University of Rajasthan has not been referred to for determining the eligibility for writing the PTET-2014 but also by the necessity of doing justice to the petitioner in the facts of the case. The Apex Court in the case of Commissioner of Income Tax, Bangalore v. J.H. Gotla. Yadagiri [, (1985) 4 SCC 343] has held that a construction which results in equity rather than injustice should be preferred by the Courts. In M/s. World Wide Agencies Pvt. Ltd. & Anr. v. Margarat T. Desor & Ors. [, (1990) 1 SCC 536] the Apex Court has commended equitable construction of law.

9. Consequently, the writ petition is allowed.

10. The communication dated 23.05.2015 qua the petitioner is set aside. It is declared the petitioner had the eligibility to write the PTET-2014 examination having secured 50% marks in aggregate in qualifying examination B.Com. which admittedly is constituted of three parts. The petitioner has written the B.Ed. examination 2015 under the interim order dated 02.12.2015. It is directed that the petitioner's result of the said examination be declared within ten days from furnishing of a certified copy of this order.