

(2017) 02 KAR CK 0112
In the Karnataka High Court
Case No : 54278 & 54279 of 2014

Shyama Sudarshan and another

APPELLANT

Vs

State of Karnataka and others

RESPONDENT

Date of Decision : 01-02-2017

Acts Referred:

Citation : (2017) 02 KAR CK 0112

Hon'ble Judges : S. Sujatha

Bench : SINGLE BENCH

Advocate : Puthige R. Ramesh, H.T. Narendra Prasad, Showri H.R., Saritha Kulkarni

Judgement

1. Petitioners are assailing the communication No. VLCP/Admn/2014-15, dated 08.11.2014 at Annexures-D1 and D2 and the communication No. KSLU/Reg/Acad-II/2014-15, dated 28.10.2014 at Annexure-E to the writ petition so far as it relates to rejection of petitioners- admission as at Sl.Nos.35 and 39.

2. Petitioner No. 1 appeared for SSLC examination as student of Sri. Ramakunjeshwara English Medium School, while petitioner No. 2 appeared for the said examination as a student of Vivekananda High School, in the examination conducted by Karnataka Secondary Education Examination Board in the month of April 2012. They have passed the said examination. Petitioners, thereafter appeared for I Year Pre-university examination conducted by the Department of Pre-University Education of the 1st respondent in the month of May 2013 and were unsuccessful. The petitioners subsequently studied in private and appeared for II Year Pre-university examination conducted by the very same department of the 1st respondent in the month of March 2014 and they successfully completed the said examination. It appears that with an intention to pursue further studies, petitioners selected the Law Course and accordingly sought admission in the 5th respondent college for the 5 years B.A., LL.B. Course commencing from the academic year 2014-15. At that time, the 5th respondent got affiliated to the 4th respondent. It transpires that the college had forwarded

list of 41 students to the 4th respondent for approval, but the 4th respondent denied approval to the petitioners. This information of rejection of petitioners-admission was conveyed to the petitioners by the 5th respondent. The said communications are challenged in these writ petitions.

3. Sri. Puthige R. Ramesh, learned counsel appearing for the petitioners placing reliance on the Judgment of this Court in the case of Mr. Bhargav B.I.v. Dr. Ram Manohar Lohia Law College and others (W.P.No.10458/2016, dated 29.8.2016) contended that Regulation 7 of the Karnataka State Law Universities Regulation ("Regulation- for short), governing 5 years- B.A., LL.B., degree course deals with the eligibility criteria for admission. According to the said Regulation, the applicant has to successfully complete II PUC or Senior Secondary School course from a recognised University of India or outside or from Senior Secondary Board or equivalent Board. Petitioners have completed their II Year Pre-University course which has been recognised by the Government of Karnataka, as such under Regulation 7 of the Regulations the petitioners are eligible for admission to the 5 year B.A., LL.B., course. Learned counsel further drawing the attention of this Court to Rule 5 of the Rules of Legal Education, 2008 (" Rules- for short) promulgated by the Bar Council of India points out to what is disqualification, explained in the explanation appended to Rule 5 of the Rules. It is only the students who have obtained 10+2 or Graduation/Post-Graduation through Open University system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the Law Courses, whereas the proviso to Rule 5 provides applicants who have obtained +2 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered for admission in the integrated 5 years- course or 3 years- LL.B., course as the case may be. Learned counsel inviting the attention of this Court to the Judgment of this Court in the case of Sudha Rani. K. and others v. The Principal, K.L.E. Society's Law College (W.P. Nos.36654/2015 and connected matters, dated 16.12.2016) contends that the point that arose for consideration before this Court was: "Whether the Bar Council is an authority for the purpose of deciding qualification for admission to LL.B. 3 years and Integrated Law Course ? And if so, rejection of admission of petitioners to law course for the non-compliance of eligibility criteria is justified"?

4. While considering the said point, this Court held that in respect of integrated course of 5 years, the applicant who has +2 Higher Secondary Pass Certificate or I Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for admission for the integrated 5 years or 3 years LL.B. course. While considering for 3 years or 5 years LL.B. course, Explanation made clear that the applicants who have obtained 10+2 or graduation through open University system without having basic qualification, are not eligible for admission to Law course. Based on Explanation (2) to Rule 5 of the Rules, while considering the cases of +2 private and other related courses, answered the point aforesaid in the affirmative dismissing the writ petitions.

5. In the case of Smt. Deepika Bhat S. and others v. Union of India and others (W.P.No. 19608/2010 and connected dated 13.3.2014) this Court while considering a similar issue held that the Rules of Legal Education, 2008, under Part-IV of the Bar Council of India ("BCI" for short) are made by the Bar Council of India in consultation with the Universities and the State Bar Councils (vide Resolution No. 110/2008, dated 14.9.2008). Hence it would not be for this Court to sit in appeal over the consensual decision of the Bar Council of India and others, which was the basis for 2008 Rules, in the absence of any apparent arbitrariness or illegality.

6. The Judgment in Bhargav's case (supra), was rendered in the context of the petitioning student approaching this Court seeking admission to 5 years B.A., LL.B., course with any of the affiliated colleges of Karnataka State Law University in the background of completing SSLC through regular schooling in the year 2005. Subsequently, in 2006 he completed I Year PUC. Thereafter, for II Year PUC course, he appeared as a private student and in 2011 passed his II PUC, desirous of seeking admission in the 5 years- B.A., LL.B., course submitted his application at Dr. Ram Manohar Lohia Law College. However, the college informed him that his eligibility to seek admission is doubtful as he has completed his II Year PUC examination privately. Subsequently, by communication dated 13.8.2015, the student has been informed that his application cannot be accepted considering the fact that his II Year PUC was completed privately. However, in the present case, the petitioners have completed SSLC examination conducted by the Karnataka Secondary Education Examination Board in the month of April, 2012, appeared for the I Year PUC examination conducted by the Department of Pre-University Education Board and was unsuccessful, thereafter studied in private and appeared for the II Year PUC examination in the month of March, 2014 and completed the said examination. Indisputably, the petitioners have not successfully completed 10+2, it is only 10+1. Regulation 7 of the Karnataka State Law Universities Regulations governing 5 years- LL.B. degree course deals with eligibility criteria reads thus: "07 Eligibility Criteria For Admission

(a) An applicant who has successfully completed Pre-University Course or Senior Secondary School Course ("12") or equivalent such as (11+1, "A"- level in Senior School Leaving Certificate Course) from a recognised University of India or outside or from Senior Secondary Board or equivalent, constituted or recognised by the Union or by the State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the course.

Provided that applicants who have obtained 10+2 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for admission to the course.

Provided further that the applicants who have obtained 10+2 or graduation or post graduation through open Universities system directly without having any basic qualification for prosecuting such studies are not eligible for admission to the course."

Rules 5 of Rules of Education, 2008 ("Rules- for short) reads thus :

"Eligibility for admission reads as under:

(a) xxxx

(b) Integrated Degree Program : An applicant who has successfully completed Senior Secondary School Course ("12") or equivalent (such as 11+1, "A" level in Senior School Leaving Certificate Course) from a recognised University of India or outside or from a Senior Secondary Board or equivalent, constituted as recognised by the Union or by a State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the program of the Centres of Legal Education to obtain the integrated degree in law with a degree in any other subject as the first degree from the University whose such a degree in law is recognised by the Bar Council of India for the purpose of enrolment.

Provided that applicants who have obtained 12 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondent method shall also be considered as eligible for admission in the Integrated Five Years- course or three years- LL.B. course, as the case may be.

Explanation: The applicants who have obtained 10+2 or graduation/post-graduation through open Universities system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law courses."

7. The requirement of both, the provisions of the Regulation and Rules is that an applicant has to successfully complete the Pre-University course. Neither of the provisions makes it mandatory that the Pre-University course must be completed after regular studies in a college. The only caveat is that the applicants who have obtained 10+2 certificate from open University system are eligible for admission to 5 years- B.A., LL.B. course. Given the circumstances, the judgment of Bhargava is distinguishable and is not applicable to the facts of the present case.

8. The Judgment in *Sudha Rani's* case (supra), is squarely applicable to the facts of the present case. Second proviso to Regulation 7 contemplates that the applicants who have completed 10+2 or graduation or post-graduation through open University system directly without having any basic qualification for prosecuting such studies are not eligible for admission to the law course. This is identical to the Explanation in Rule 5 of the Rules. Apparently, the petitioners herein have not passed I Year PUC, however completed II Year PUC examination privately. In such circumstances, the students are not eligible for admission to

the course in terms of the second proviso to the Regulation. These petitioners have completed 10+2nd Year PUC without completing I Year PUC. Hence, respondents 1 to 4 are justified in rejecting the petitioners- case for admission to the 5 Years- B.A., LL.B. course on the ground that the petitioners had completed their II Year PUC course privately sans completing I Year PUC. Accordingly, the petitions are dismissed.