

(2015) 05 KL CK 0049

In the High Court Of Kerala

Case No : Writ Petition (C). No. 6188 of 2012 (W)

Sithara T.R.

APPELLANT

Vs

The University of Kerala and Others

RESPONDENT

Date of Decision : 21-05-2015

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2015) 05 KL CK 0049

Hon'ble Judges : A.V. Ramakrishna Pillai, J

Bench : Single Bench

**Advocate : K. Jaju Babu, Senior Advocate and Saiju S., for the Appellant;
George Poonthottam and Bechu Kurian Thomas, SCs, Advocates for the
Respondent**

Final Decision : Allowed

Judgement

A.V. Ramakrishna Pillai, J.

1. In this writ petition, the petitioner is challenging the act of the respondent University in confining relaxation in marks to SC/ST students in M.Ed (CSS) segment only and she is seeking appropriate directions to the respondent university for permitting her to continue her M.Ed course, attend her classes and give her an early opportunity to write the M.Ed degree first semester examination.

2. The petitioner is a member of the Scheduled Caste. She completed her Post Graduation in Arts and B.Ed degree course in English literature. The respondent University issued Ext.P1 notification for entrance examination for admission to the M.Ed degree course in the year 2011 and pursuant to the same, the petitioner has submitted her application. In response to Ext.P2 notification, she submitted an application for PG entrance test, 2011. She was issued Ext.P3 hall ticket and she appeared in the M.Ed degree (Non credit and Semester system) (Non-CSS for short) Entrance Examination conducted by the respondent

university and she passed the same. She also cleared the M.Ed entrance examination in the CSS category conducted on the basis of Ext.P2 notification. The petitioner alleges that during the seat allotment process, the petitioner was assured that she would be entitled to 5% relaxation in the marks in M.A. Examination to join the M.Ed course in the Non-CSS category as she belongs to Scheduled Caste. Therefore, she, who could secure less than 50% marks in M.A. English literature course, was allotted a seat for the M.Ed (Non-CSS) degree course in the NSS Training college, Pandalam in Pathanamthitta District. She joined the college and attended classes as evidenced by Exts.P4 and P5. While so, the respondent University notified M.Ed degree first semester examination to be held in February 2012. The petitioner made her application for the examination and paid the requisite fee as evident by Ext.P6. However, hall ticket for the first semester M.Ed examination was not issued to her and she was not permitted to write her first semester examination. She was informed by one of the teachers of the college that her application for examination was rejected as she was found not eligible to continue her studies on account of her having less than 50% marks in the M.A. English literature examination. According to her, no formal orders have been issued by the university citing the reason for rejecting the application. She alleges that SC/ST candidates who were given mark relaxation and admitted in the M.Ed category have been able to write their examinations and prosecute their studies without any hindrance. She points out that the difference between M.Ed (Non-CSS) course and M.Ed (CSS) course is only nominal and the difference exists only in the nomenclature. She points out that in Ext.P2 notification, it was clearly stated that for all subjects there is relaxation in minimum marks for SC/ST students. According to her, the act of the respondent University in confining the benefit of mark relaxation to the SC/ST students in the CSS segment is sheer arbitrariness. According to her, classification between M.Ed (CSS) and M.Ed (Non CSS) for the purpose of providing relaxation of minimum marks is not a reasonable classification in terms of Article 14 of the Constitution and therefore, she is challenging the same.

3. The 4th respondent who is the Manager of the college has filed a counter affidavit. It was contended that the principal of the college was not involved in the matter of verification of the documents produced by the candidates before the Admission Committee constituted by the University of Kerala for admission purpose in the merit seats in the college. The Admission committee is the authority to verify the documents produced by the candidates appeared before them and to issue allotment memo to the candidates directing them to report to the college opted if he/she is eligible for admission. After issuing allotment memo, the admission committee would instruct the candidate to report before the representative of the college allotted to him/her present in the hall. If the candidate appears before the representative of the college as instructed by the Admission Committee, the representative of the college would affix his/her signature in the allotment memo issued to the candidate by the Admission Committee and return the duplicate copy of the allotment memo to the candidate

instructing him/her to be present in the college along with the original certificates. Ext.R4(b) is the allotment memo issued by the university to the petitioner. On receipt of the documents from the candidates, the college would forward the same to the University of Kerala for registration of the students with the University of Kerala for imparting the course. The fee collected from the students would be remitted in the Sub Treasury, Pandalam.

4. In the counter affidavit filed by the respondent University, they have justified their stand in refusing hall ticket to the petitioner.

5. This Court, by interim order dated 13.3.2012, directed the 4th respondent to permit the petitioner to attend classes at her own risk. By subsequent interim orders, the petitioner was permitted to appear for the Ist and 2nd semester examinations provisionally.

6. Arguments have been heard.

7. It is true that the petitioner has applied for admission to M.Ed (Non-CSS) in pursuance of Ext.P1 notification. The qualifications expected for applying for admission to M.Ed (Non-CSS) were specified in Ext.P1 notification. It is extracted below for ready reference.

i. The B.Ed degree examination of the University of Kerala or its equivalent degree from other Universities recognized by the University of Kerala with a minimum of 50% marks. Relaxation of 5% marks for SC/ST candidates and 2% for SEBC candidates will be allowed.

ii. M.A./M.Sc degree examination of the University of Kerala or its equivalent degree from other university recognised by the University of Kerala with a minimum of 50% of marks.

8. It is relevant to note that relaxation of 5% marks is available to the candidates belonging to SC/ST candidates in the first case. No such relaxation is prescribed in the second case. Thus, relaxation of 5% marks would be available to a candidate belonging to SC/ST community with reference to his/her marks obtained in B.Ed and not in M.A./M.Sc. In other words, while SC/ST candidates could have 45% marks and yet successfully obtained a seat, he/she has to mandatorily have 50% marks for M.A./M.Sc.

9. The argument advanced by the learned counsel for the petitioner is that there is only a nominal difference between M.Ed (CSS) and M.Ed (Non-CSS) and the said difference exists only in nomenclature. In fact the prospectus issued for M.Ed (CSS) is distinct and not applicable to M.Ed.(Non-CSS) course. As already pointed out, relaxation of 5% marks would be available to a candidate belonging to SC/ST community with reference to the marks obtained in B.Ed and not in M.A./M.Sc. It is also relevant to note that Ext.P1 notification has been issued in consonance with the regulations approved by the academic bodies of the university. Under such circumstances, the petitioner ought to have applied under M.Ed (CSS) course of study, however, having applied under M.Ed (Non-CSS)

course, she cannot escape the rigours thereof.

10. It was argued by the learned standing counsel for the respondent University that the admissions of all candidates to particular courses were made provisionally and the candidates' eligibility to prosecute a particular course can be confirmed only after the qualifying certificates are verified by the respondent university. The mere fact that a candidate has been admitted to a particular course will not confer any right on him/her to appear for the examination unless and until his/her qualifying certificates are verified and found eligible; so submitted the learned standing counsel for the university.

11. The definite stand taken by the respondent university in the counter affidavit is that the petitioners' qualifying certificates were submitted to the university by the 4th respondent college for verification belatedly and very close to the examination date. As soon as the ineligibility of the petitioner was found out, the same was reported to the Vice-Chancellor of the respondent university. The Vice Chancellor by his order dated 9.2.2012 directed that the matter be placed before the standing committee on examination. The standing committee by its proceedings held on 9.2.2012 recommended to reject the application of the petitioner which came to be approved by the Vice Chancellor subject to ratification by the syndicate of the respondent university. According to the respondent University, the hall ticket was not issued to the petitioner in view of the ineligibility of the petitioner to M.Ed. (Non-CSS) course.

12. The attempt made by the petitioner to make a case that there is no difference between M.Ed course under CSS category and Non-CSS category is on an erroneous assumption. While M.Ed (CSS) course is offered only at the Department of Education under the respondent University, M.Ed (Non-CSS) course is offered at the aided colleges. The notification for admission under M.Ed (CSS) and M.Ed (Non-CSS) were issued at different points of time with the ranking criteria and selection procedure of the two programmes were entirely different. The M.Ed (CSS) course is conducted as per the regulations of the credit and semester system where the students were assigned grades and not marks under the M.Ed (Non-CSS) system. This particular fact strengthens the contention of the respondent University that the petitioner was not eligible for admission, though she might have been eligible for admission under M.Ed (CSS) Programme. A relaxation up to 5% marks has been provided for students belonging to Scheduled Caste/Scheduled Tribe in the subjects of B.Ed as well as M.A./M.Sc. in the case of M.Ed (CSS) programme. However, in the course of M.Ed (Non-css), such a relaxation has been contemplated only with respect to the minimum marks in the degree of B.Ed. The petitioner having chosen to apply under M.Ed (Non-CSS) cannot now contend that the benefit of relaxation has to be extended to her.

13. Though the petitioner's contention has no legal force to stand, it appears from the counter affidavit filed by the 4th respondent that a centralised counselling was conducted by the committee consisting of Chairman, Post

Graduation courses Board, Dean, faculty of Education and Head of the Department, Department of Education, University of Kerala. Several officials of the university, viz. Assistant Registrar, Section Officer, Assistant Grade, University staff etc. were also present at the hall for verifying the documents produced by the candidates at the time of counselling for proving their age, qualification, entitlement of reservation etc. That means, the respondent university had ample opportunity to verify the documents of the petitioner. The defect now pointed out by the respondent University somehow escaped the attention of the respondent university for which the petitioner cannot be blamed fully. Believing that the petitioner was duly selected, she has joined the college. Only at the fag end of the semester, she was denied the hall ticket and thus she was compelled to approach this Court. On account of the latches on the part of the officials participating in the counseling, the petitioner was made to believe that she was selected and she has undergone the course. It may not be proper at this point of time to refuse the M.Ed degree to the petitioner, if she is otherwise eligible.

Therefore, the writ petition is allowed. The respondent University is directed to declare the result of the petitioner and to issue M.Ed degree certificate to the petitioner, if she has qualified in the M.Ed Degree examination. It is hereby made clear that this direction is given only on account of the special circumstances of the case and it shall not be taken as a precedent.