
(1996) 05 AHC CK 0141

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 36615 of 1994

Smt. Anita Singh

APPELLANT

Vs

Banaras Hindu University and Others

RESPONDENT

Date of Decision : 16-05-1996

Acts Referred:

Constitution of India, 1950 — Article 15, 226, 29

Citation : (1997) 1 UPLBEC 454

Hon'ble Judges : U.P. Singh, J;B.K. Sharma, J

Bench : Division Bench

Advocate : D.S.P. Singh, for the Appellant; V.K. Upadhyya, for the Respondent

Final Decision : Dismissed

Judgement

U.P. Singh, J.—In this writ petition the petitioner has sought a writ of mandamus, directing the respondents to admit her in First Year of 3 years LL. B. Degree Course of the Banaras Hindu University for the Session 1994-95 in the supernumerary quota available to the sons/daughters of permanent in service employees of the Banaras Hindu University, claiming that although she is daughter-in-law of the petitioner she is entitled for admission on the supernumerary quota provided for the sons and daughters only.

2. In the University Entrance Test (in short "UET") held on 9-6-1994 for admission in LL B. 3 Years Degree Course of the Banaras Hindu University, the petitioner appeared and she was allotted Roll No. 56341. She applied for consideration for her application under the reservation quota provided under Clause 16 (b) of the UET bulletin under the heading "Reservation/Weightage" which provides:

"15% supernumerary seats for sons/daughters of permanent in service employees of the University provided they qualify in the test."

3. The minimum qualifying marks of the Entrance Test was 40% for LL. B. The petitioner had obtained 200 marks out of 300 and, as such, she obtained 66.6%

marks in the above test. She claimed that even in the previous year she had applied for admission in LL. B. Course under the supernumerary quota and had obtained 184 marks out of 300. She further claimed that she being the daughter-in-law of a permanent employee, on the post of Assistant Workshop Superintendent, I. T. Main Workshop, Banaras Hindu University, comes within the meaning of his daughter and was, thus, entitled to get admission. In the last year also her application was rejected on 5-8-1993, on the ground, that supernumerary quota was not available to the daughter-in-law. The remark contained in Annexure-A (2) the application dated 5-8-1993 may be noticed :

"R. I. O.

According to the reservation Rules a quota of supernumerary seats subject to maximum of 10% shall be reserved for admission of sons and daughters of the permanent in service employee of BHU in various courses.

This means only sons and daughters of permanent employee and none of the dependents unless legally adopted as son or daughter. The daughter-in-law cannot be covered under this category.

Sd/- 5-8-1993"

4. In the present year (1994-95) also, she moved an application for consideration of her application under the supernumerary quota, but it was rejected on 8-9-1994, Annexure-A (3), with the mark that it is provided only to the sons/daughters of permanent in service employees of the University provided they qualify in the test. The remark contained in Annexure-A (3) reads;

"R. I. O. with the mark that 15% supernumerary seats are reserved for sons/daughters of permanent in service employees of the University provided they qualify in the test as per Rule printed on page 26 of UET Bulletin of 1994-95 under heading Reservation/weightage."

Sd/- 8-9-1995 Deputy Registrar (Exams.) UET Cell Banaras Hindu University, Varanasi-221905"

Her case is that there are 250 seats for admission in LL. B. 3 years Degree Course and, as such, 15% supernumerary quota is 38 seats, which is still not completed and a candidate, obtaining 16 marks less than the petitioner had got the admission, but the petitioner is not being admitted, and, therefore, the Court should direct the respondents to admit the" petitioner provisionally in LL. B. 3 Years Degree Course for the Sessions 1994-95. According to her, the word "daughter" used in Clause 16 (b) under the heading "Reservation/Weightage" has to be interpreted, as, all kinds of daughters and the petitioner being the daughter-in-law, should be treated as "daughter" for the purpose of getting advantage of the said reservation quota.

5. Subsequently, before the hearing of this petition, the petitioner moved an amendment application with a prayer to add an alternative relief in the following

manner :

"or in the alternative this Hon"ble Court be pleased to quash all kind of reservations which are violative of Articles 15 and 29 of the Constitution of India in admission to LL. B. Course in B. H. U. to be filed up by general candidates."

Thus, seeking the relief by moving the amendment application, she has challenged the Rules provided for reservation/weightage under Clauses 16 (b) and (d) in the same manner and on the same grounds as raised by the petitioner in corrected Civil Misc. Writ Petition No. 40764 of 1994-Kumari Mamta Singh v. B.H.U., reported in (1996) 2 UPLBEC 1142 which was heard alongwith this writ petition.

6. Therefore, the reasons given in our judgment of date in the aforesaid writ petition No. 40764 of 1994, {supra) will cover these grounds as well, and for the reasons assigned therein, these ground raised herein also stand rejected.

7. Now, the only ground which remains to be considered in this petition, is as to whether the petitioner is entitled to claim advantage of reservation/weightage in accordance with Clause 16 (b) of the U. E. T. Bulletin, which is meant for sons/daughters of permanent in service-employees of the University, provided they qualify in the Entrance Test. The petitioner claims this advantage on her own interpretation of the word "daughter" and, according to her, the "daughter" for the purpose of this reservation of 15% supernumerary seats, will include the "daughter-in-law as well and, she being the daughter-in-law of the petitioner, is entitled to the same benefit.

8. We are unable to accept this contention for the reason that the words "sons and daughters" meant for reservation and/or weightage to be given to them under Clause 16 (b), cannot be interpreted to include "daughter-in-law". Possibly, a daughter-in-law may command a higher respect in society when she comes to the house of her father-in-law, but then that will not give here the advantage of reservation for admission on supernumerary seats, which is exclusively meant for the "daughter". The Court cannot import such words in the said clause nor the word "daughter can be interpreted by stretching it to include "daughter-in-law".

9. It may be stated that in the existing sanctioned strength of 250 seats for admission to LL. B. 1st Year course the only reservation is 15% for Scheduled Caste candidates, 7.5% Scheduled Tribe Candidates and 3% for orthopedically handicapped 15% supernumerary quota of seats for the sons and daughters of permanent in service employees of the University is over and above the existing strength of 250 seats. Even in this quota, the merit is not diluted, as every candidate, even in this quota, has to secure a minimum of 45% marks in the aggregate in the qualifying examination and 40% marks in the Entrance Test, like all the other candidates. Admission to 10% seats are held back to consider the admission of candidate who are not able to clear the qualifying examination , but under the Banaras Hindu University Ordinance, are entitled to appear and

clear the said qualifying course in back papers examinations. If the said provision is not made for admission, it will adversely affect the aforesaid candidates even if they clear the qualifying examination. The petitioner's position in the list of candidates, according to the index, is 126th after those who are admitted. The index is 224 and in this index there are 32 candidates. According to the University Entrance Test (UET) brochure if the marks of the Entrance Test are equal, then the marks of the qualifying examination will be taken and if even these marks are equal, then the candidate older in age will be admitted. Thus, the petitioner could not be admitted. The petitioner was rightly denied admission since she was not entitled to be considered under the afore said 15% supernumerary quota.

10. We, therefore, find that the impugned order endorsed on petitioner's application dated 5-8-1993 and also the order dated 8-9-1994 on the petitioner's subsequent application in respect of session 1994-95 that the daughter-in-law cannot be covered under this category, are absolutely correct and call for no interference by this Court is exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India.

11. The petition is, accordingly, dismissed.