

(2016) 02 MAD CK 0165

In the Madras High Court

Case No : W.A. No. 1632 of 2015 and M.P. No. 1 of 2015

S.R. Deepak

APPELLANT

Vs

The Tamilnadu Dr. Ambedkar Law University and Others

RESPONDENT

Date of Decision : 02-02-2016

Acts Referred:

Advocates Act, 1961 — Section 24(1)(c)(iii), Section 49(1)(af), Section 49(1)(d),
Section 7(1)(h)

Indira Gandhi National Open University Act, 1985 — Section 2(e)

Citation : (2016) AIR(Madras) 69 : (2016) 2 MLJ 100

Hon'ble Judges : Satish K. Agnihotri and Dr. P. Devadass, JJ.

Bench : Division Bench

Advocate : R. Singaravelan and M. Srividhya, for the Appellant; A. Thiayagarajan, SC for M. Nallathambi, for the Respondent

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—1. The petitioner, who is the appellant herein, completed Matriculation in the year 2008 from Bharathidasan Matriculation School and within one year, completed Plus 2 course in 2009. Thereafter, he sought admission to B.Com. degree course in SRM University and passed the same in First class in May, 2013. A degree certificate was granted on 9th February, 2014. On the basis of the graduation in B.Com., the petitioner/appellant sought admission to three year LLB degree course for the academic year 2015-16 in the Tamil Nadu Dr. Ambedkar Law University, the first respondent herein. But, admission to the said course was denied on the ground that the appellant had not completed 10+2 examination on regular basis and as such, does not possess basic qualification for admission to three year LLB degree course. Denial of admission prompted the appellant to file the instant writ petition, seeking a writ of mandamus directing the respondent University to admit the petitioner in the Government Law College at Chengalput.

2. The learned Single Judge, examining all aspects of the matter, came to the

conclusion as under:

"6. Proviso to Rule 5 deals with integrated five year course as well as the three year L.L.B. Course as the case may be. Thus, the submission made by the learned counsel for the petitioner that the proviso has to be made applicable to the Rule 5(b) alone cannot be accepted. Tenth, +2 is the basic qualification both for three year course as well as the integrated degree programme. Now, this proviso has been explained through the explanation. Thus, the explanation clearly explains the proviso. Therefore, there is no apparent conflict as suggested by the learned counsel for the petitioner. On the contrary in order to make the proviso very clear, the explanation has come into being. It is meant to clear any possibility of doubt with respect to the understanding of the proviso. The explanation clearly speaks about the qualification of the 10th standard from open university system. Thus the students, on completion of the tenth standard through the open university system without any basic qualification for prosecuting such studies are not eligible for the law course. Therefore, it is very clear that where standard adopted from the Open University system is not a bar it has to confine to the basic qualification viz., Studied upto 10th standard otherwise anybody who has not completed the tenth standard would become automatically eligible for admission in the law course which is not intention as seen from the explanation. The petitioner does not have a vested right to claim under Rule 5(b). Merely because a call letter is issued, he cannot claim any right for admission. Similarly, there is no difference between the candidate completed upto eighth standard and anything lesser as the position remains the same. There is no estoppel against the statute. Similarly, there is no scope of reading down a provision made so when there is an explanation available."

and dismissed the writ petition. Thus, the instant intra-court appeal.

3. The question that arises for our consideration is whether a candidate, who has obtained 10+ 2 schooling certificate in 8 + 1 + 2 years before obtaining graduation in Commerce, is eligible for admission to three year Law course under the Rules of Legal Education, 2008 (for short "the Rules of Legal Education") framed in exercise of powers under Section 7(1)(h) and (i), 24(1)(c)(iii) and (iiia), 49(1)(af), (ag) and (d) of the Advocates Act, 1961 read with the eligibility criteria for admission under the Information Bulletin 2015-2016 (for short "the eligibility criteria for admission") issued by the Registrar, Tamil Nadu Dr. Ambedkar Law University.

4. The learned counsel appearing for the appellant submits that the basic qualification for admission to three year L.L.B. course is graduation. The appellant has obtained graduation through regular course. The appellant had studied 8th standard under regular schooling. However, only 10th standard, i.e., SSLC, certificate was obtained by appearing privately. Thus, the appellant is entitled to admission under the provisions of Rule 5 of the Rules of Legal Education.

5. It is further contended that proviso to Rule 5(a) and (b) permits studies in distance or correspondence method and the explanation clarifies that the basic qualification for admission (in the case of the appellant-degree) should have been obtained. It is permissible to obtain the same by correspondence course or through distance education mode. Relying on a decision of a Division Bench of this Court in T.L. Muthukumar and others Vs. The Registrar General, High Court, Madras and another , (2011) 2 MLJ 785, the learned counsel would contend that after passing SSLC, if one has passed Plus 2 on regular basis, one is entitled to take admission to regular degree course. Thus, a regular schooling upto SSLC is not a pre-condition to obtain Plus 2 and also to seek admission to graduation degree after completing Plus 2 on regular basis.

6. Mr. R. Singaravelan, learned counsel would further urge that having issued a call letter for counselling, admission could not have been rejected subsequently on the ground of being ineligible and the principle of estoppel operates against the authority as held in Shri Krishan Vs. The Kurukshetra University, Kurukshetra , AIR 1976 SC 376 and also in Chandrakala Trivedi Vs. State of Rajasthan and others , (2012) 3 SCC 129.

7. According to the learned counsel for the appellant, no candidate can be failed upto SSLC standard and as such, in no way, the standard of examination will be undermined when the appellant had undergone regular schooling upto 8th standard and had passed 10th standard examination privately. The appellant had taken Plus 2 schooling and also graduation on regular basis.

8. It is next contended that since the appellant had obtained basic qualification, i.e., graduation in Commerce through regular course and there was no objection to admit him in the regular graduation course in Commerce on the basis of private examination, at this stage, the respondent University is not competent to deny admission to the appellant.

9. On the other hand, Dr. A. Thiayagarajan, learned Senior Counsel appearing for the University would submit that validity of Rule 5 the Rules of Legal Education has been upheld by this Court. Explanation to Rule 5 makes it clear that graduation without having any basic qualification does not entitle a candidate to seek admission to three year L.L.B. course. The appellant had completed Plus 2 schooling after writing 10th standard examination privately. It is further contended that the University is making all efforts to maintain educational standard in L.L.B. course, as per the Rules of Legal Education, as framed by the Bar Council of India. The candidate, who had not completed 10 + 2 course on regular basis, before admission to graduation in Commerce, is not entitled to admission to three years L.L.B. course on regular basis.

10. The Bar Council of India was also impleaded as respondent, at the admission stage.

11. Mr. S.R. Rajagopal, learned counsel appearing for the Bar Council of India submits that the Bar Council of India, having regard to steady fall in the legal

profession, had laid down certain rules, which are to be adhered to strictly. Rule 5 of the Rules of Legal Education stipulates conditions for admission to three year L.L.B. course as well as five year L.L.B. course. A candidate is required to complete 10+2 examination on regular basis. He would further submit that the explanation to Rule 5 makes it clear that the applicant, who had obtained 10 + 2 or graduation/post graduation through open university system directly, without having any basic qualification for prosecuting such studies, is not eligible for admission in the law courses. The candidate is required to complete 10th standard certificate examination in 10 years, not in nine years, as is the case on hand.

12. Relying on T.L. Muthukumar (supra), the learned counsel further urged that 12 years schooling is a pre-requisite for admission to graduation course. The university is the sole authority to prescribe the eligibility criteria as held in S. Tharani Kirthika (Minor) Vs. The Registrar, Tamil Nadu Dr. Ambedkar Law University W.P. No. 18881 of 2011, dated 7.9.2011.

13. The learned counsel also submits that in the case on hand, the appellant had take private examination, unlike distance education or open university. In the distance education, the education is imparted through broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more of such means under Section 2(e) of the Indira Gandhi National Open University Act, 1985. Under Open University system, there is no regular class rooms and no requirement of attending classes. However, candidates are furnished with study materials and as such, they are updated with the requirement of particular subject. On the contrary, a private candidate has to undertake his studies without the help of any study material or other modes of instruction and as such, a private candidate, in no event, is permitted to be treated as a candidate, who has obtained some education under the distance education or open university system.

14. In support of the aforestated contention, the learned counsel relies on a decision of the Supreme Court in Bar Council of India Vs. Aparna Basu Mallick , (1994) 2 SCC 102, para 14.

15. Heard the learned counsel for the parties, perused the pleadings and documents appended thereto.

16. To appreciate the question of law, as aforestated, it is apt to refer to the relevant provisions:

Rule 5 of the Rules of Legal Education, 2008 reads as under:

"5. Eligibility for admission. - (a) Three Year Law Degree Course: An applicant who has graduated in any discipline of knowledge from a University established by an Act of Parliament or by a State Legislature or an equivalent national institution recognised as a Deemed to be University or foreign University recognised as equivalent to the status of an Indian University by an authority

competent to declare equivalence, may apply for a three years" degree program in law leading to conferment of L.L.B. degree on successful completion of the regular program conducted by a University whose degree in law is recognised by the Bar Council of India for the purpose of enrolment.

(b) Integrated Degree Program : An applicant who has successfully completed Senior Secondary School course (" +2") 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 or 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 +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 in the Integrated Five Years course or three years" L.L.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."

17. The relevant clause on the Information Bulletin 2015-2016 for admission to the 3 year Law degree course reads as under:

ELIGIBILITY CRITERIA FOR ADMISSION

(a) Educational Qualification : Candidates should have passed Bachelor's Degree Course of any University recognized by The Tamil Nadu Dr. Ambedkar Law University and should have secured not less than 45% of marks (in aggregate). Candidates belonging to SC/ST communities should have secured 40% of marks in aggregate in the qualifying degree course.

For purpose of ranking, marks obtained in the Major and Allied subjects excluding languages alone will be taken into account. [G.O. Ms. No. 83, Law (LS) Department, dtd. 19-04-2007]

(b) Age for admission : No Age Limit.

(c) Employed candidates are not eligible to apply.

(d) The Transgender or Eunuch (Thirunangai or Aravani) candidates are included under Most Backward Class and such candidates are required to shade the brackets 3 in the column 4 as well as 4 in the column 6 in the OMR sheet.

Note. (1) Candidates should have obtained the Degree/Provisional Certificate in the qualifying examination on the date of their counselling. Otherwise, their candidature will not be considered.

(2) The applicants who have obtained 10+2 or Graduation/Post Graduation without having any basic qualification are not eligible for admission to the law courses.

(3) Candidates shall furnish the photo copy of the Consolidated Mark Statement of their qualifying degree course obtained from the University or from the institution where they studied, along with the application."

18. Looking into the continuous fall in the standard of legal education, it is absolutely essential to set the admission standard for a well organised legal education. The Bar Council of India is required to lay down clear standard for admission and also the conduct of legal education in a proper dedicated manner. The Supreme Court, emphasising the need for a well recognised legal education way back in 1995, observed in *State of Maharashtra Vs. Manubhai Pragaji Vashi and others* , (1995) 5 SCC 730, as under:

"17. x x x x x x x The need for a continuing and well-organised legal education, is absolutely essential reckoning the new trends in the world order, to meet the ever-growing challenges. The legal education should be able to meet the ever-growing demands of the society and should be thoroughly equipped to cater to the complexities of the different situations. Specialisation in different branches of the law is necessary. The requirement is of such a great dimension, that sizeable or vast number of dedicated persons should be properly trained in different branches of law, every year by providing or rendering competent and proper legal education. This is possible only if adequate number of law colleges with proper infrastructure including expertise law teachers and staff are established to deal with the situation in an appropriate manner. It cannot admit of doubt that, of late there is a fall in the standard of legal education. The area of "deficiency" should be located and correctives should be effected with the cooperation of competent persons before the matter gets beyond control. Needless to say that reputed and competent academics should be taken into confidence and their services availed of, to set right matters. x x x x x x x."

19. Reliance of the petitioner on T.L. Muthukumar (supra) to submit that passing of 10th standard examination in a regular stream is not a prerequisite, is misplaced. In the case on hand, the appellant has passed 8th standard in regular stream and for two years 9th and 10th standards, he has passed 10th standard by appearing privately in one year. A candidate, undergoing regular course or through correspondence, is required to spend two years for obtaining 9th and 10th standard certificate. Even if a person is stated to be more competent, who can pass two years course in one year, it cannot be allowed, as the regular study and understanding of the course in two years cannot be curtailed to one year. Since the appellant has passed two years 10th standard certificate in one year,

he cannot be held as complying with the requirement of obtaining +2 certificate on having basic qualification as prescribed under Note (2) of the eligibility criteria for admission.

20. There is no challenge to the validity of Rule 5 of the Rules of Legal Education and also the eligibility criteria for admission. In *Aparna Basu Mallick* (supra), the Supreme Court has upheld the power of the Bar Council of India exercised under the provisions of Section 49(1)(d) of the Advocates Act, to frame rules prescribing the standards of legal education to be observed by the universities in India. Thus, we have to appreciate the entire provision as it is. On a conjoint reading of Rule 5 of the Rules of Legal Education read with Note (2) of the Eligibility Criteria for admission under the Information Bulletin 2015-2016, it is eloquent that the Plus Two Higher Secondary pass certificate or graduation degree course as basic qualification certificate or degree, as the case may be, has to be obtained on having basic qualification. The proviso to Rule 5 deals with Plus Two Higher Secondary pass certificate which is obtained after prosecuting studies in distance or correspondence method for admission to the integrated 5 year course or regular graduation for admission to 3 year L.L.B. course thereafter.

21. Indisputably, Rule 5 or the relevant criteria prescribed in the Information Bulletin does not deal with a situation, wherein, a candidate has obtained X standard examination certificate privately nor after prosecuting studies in distance or correspondence method. Distance education has been defined under the provisions of the Indira Gandhi National Open University Act, 1985, as an education taken from an outside place on the basis of education imparted through broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more of such means. In distance education, a candidate is not required to attend classes regularly. However, the education is imparted, as aforesaid, for two years in two year course. In the case of open university system, albeit there may not be regular classrooms, but, the candidates are supplied with study materials which make them abreast of up-to-date knowledge. In the case of a private candidate, no study material is supplied. It is for the candidate to study on his own and write the examination. The test is passing the examination without there being any support.

22. In the case on hand, the appellant had passed the 2 years examination, i.e., for IX and X standard in one year privately without any educational aid. As such, it cannot be held that he had obtained a basic qualification of X standard in 10 years. As a sequel, we have no hesitation in holding that the appellant does not fall within the eligibility criteria as enshrined in Clause (a) of Rule 5 of the Rules of Legal Education.

23. In *T.L. Muthukumar* (supra), the issue involved was the interpretation of G.O. Ms. No. 107, Personnel and Administrative Reforms Department dated 18.08.2009 to consider the promotion of the appellant therein to the post of Assistant Section Officer, whereunder, while interpreting Regulation 2 of 1985 Regulations, it was held that no candidate shall be eligible for award of first

degree unless he has successfully completed 12 years schooling and similarly, no student, who has not successfully pursued the first degree course of 3 years duration, shall be eligible to seek admission to Master's degree course in any faculty. In the instant case, the appellant has not successfully completed X standard in 8 + 2 years. Thus, the ratio laid down in T.L. Muthukumar (supra) is not of any assistance to the appellant.

24. The issue involved in Shri Krishnan (supra) was as to whether the candidature of the applicant to take the examination can be withdrawn subsequently on finding that there was shortage of percentage in attendance. It was held that once the candidate is allowed to take the examination rightly or wrongly, the candidature cannot be withdrawn subsequently. The facts of the instant case are entirely different and as such, no benefit can be derived from the aforestated case which was approved subsequently in Chandrakala Trivedi (supra). Issuance of a call letter for counselling is not a promise or assurance for admission to a course. Thus, the principle of estoppel, as pleaded by the learned counsel for the appellant, is not applicable to the appellant's case.

25. In view of the aforestated premises, we are of the considered opinion that the appellant is not eligible under prescription of Rule 5 of the Rules of Legal Education read with Eligibility Criteria for admission to 3 years L.L.B. course. The respondent University has rightly rejected the appellant's candidature for admission to the said course.

26. Before parting with the matter, we are constraint to make certain observations which require serious consideration of the Bar Council of India.

27. Unfortunately, steady degradation in the legal profession is a sequiture of the improper admission and inefficient legal education. The legal profession has become a course of last resort. Legal education is both a technical and professional education which requires strict scrutiny before admission to course and also maintenance of regular standard. Proper infrastructure to impart skilled education play a pivotal role in the development of the democracy and the society as a whole. Entry into the legal education with an intent to join legal profession requires strict mode of admission and also intense and rigorous education schedule. Legal education is a sine qua non for development in a society. There should be two courses, one for professionals and other for academics intending to pursue degree in legal education merely for acquiring knowledge. The Bar Council of India must consider the issue as to whether the law degree course has to be split into two streams, i.e., one for professionals who intend to take up the profession, wherein, a strict educational standard is to be maintained and one for others who intend to prosecute law degree in pursuit of knowledge in law. We hope and trust, in all earnestness, that the Bar Council of India shall examine the issue with the help of the experts in the field and take a conscious and considerate final call in this regard.

Resultantly, the writ appeal stands dismissed. Costs made easy.

Connected Miscellaneous Petition is closed.