
(1989) 12 OHC CK 0004
In the Orissa High Court
Case No : O.J.C. No. 2909 of 1989

Sri Kishore Chandra Mishra	Vs	APPELLANT
Orissa University of Agriculture and Technology and Others		RESPONDENT

Date of Decision : 07-12-1989

Acts Referred:

Citation : (1990) 69 CLT 501

Hon'ble Judges : D.P. Mohapatra, J;A. Pasayat, J

Bench : Division Bench

Advocate : G.S. Rath, for the Appellant; Additional Government Advocate and J. Das, for the Respondent

Final Decision : Allowed

Judgement

D.P. Mohapatra, J.—The Petitioner's hope to improve his qualification and expertise having been shattered by the action of the opposite parties he has approached this Court for redress. The Petitioner has prayed to quash the communication made by the Director of Soil Conservation, Orissa (opp. party No. 3) to the Asst. Soil Conservation Officer, Pallahara on 21-8-1989 (Annexure-3) from which it appears that the Petitioner could not be accepted for admission in the Orissa University of Agriculture and Technology (OUA T) (opposite party No. 1) since he had not secured 50 per cent marks in the High School Certificate Examination and to issue an appropriate writ to the University (opp. party No. 1) and the Principal and Dean of the College of Agriculture of the University (opposite party No. 2) to admit him into the B.Sc. (Ag.) course. In addition to the three opposite parties mentioned above, the State of Orissa represented by the Commissioner-cum-Secretary, Agriculture and Co-operation Department has been impleaded as opposite party in the case.

2. The case of the Petitioner, shortly stated, is that he has been serving in the Soil Conservation Department under opp. party No. 3 since May, 1979. On his application the Petitioner was selected by the State Govt. to be sponsored for admission into the B.Sc. (Ag.) course for the year 1989-90 in the O.U.A.T. and

consequently was relieved from the post of Junior Soil Conservation Assistant at Pallahara under the direction of opposite party No. 3. When the Petitioner approached the opposite party No. 2 with the requisite documents for admission on 21-8-89 the said opposite party refused to admit him on the plea that the Petitioner having secured less than 50 per cent marks in the H.S.C. Examination he is not eligible for admission into the B.Sc. (Ag.) Course. The opposite party No. 2 returned the application of the Petitioner. The Petitioner naturally approached the opposite party No. 3, the Head of the Department, expecting him to take up the matter with the authorities of the University and convince them that the Petitioner who has been duly selected and sponsored by the State Govt. should be admitted to the course, but the opposite party No. 3 by the impugned order (Annexure-3) required the Petitioner to go back to his place of work and join his post. In these circumstances, being disappointed with the action of the University as well as the Departmental authorities the Petitioner filed the writ application seeking the reliefs mentioned earlier.

It is the further case of the Petitioner that in pursuance of the scheme formulated by the Govt. of India with a view to enable workers in the Agriculture sector under the State Govt. to improve their educational standard and experties, a certain number of seats in the B.Sc. (Ag.) course in the O.U.A.T. is reserved for candidates who are sponsored by the State Govt. The selection of such candidates is made by the departmental authorities of the State Govt. on the criteria that the candidate has passed B.Sc. plus two Science/equivalent examination and has acquired five years experience. The candidates so selected by the State Govt. are admitted into the course every year by the University without being subjected to the normal channel of selection prescribed by the University for its students. This practice, according to the Petitioner, has been continuing since long. The Petitioner as well as other departmental candidates were selected on the basis of the aforementioned criteria and were sponsored by the State Govt. for admission to the B.Sc. (Ag.) course for the year 1989-90. Suddenly this year the University and its functionaries insisted that the candidates sponsored by the State Govt. should also satisfy the eligibility qualification for admission as prescribed in the prospectus issued by the University and tested on that touchstone the Petitioner failed to shine since he had secured less than 50 per cent marks in the H.S.C. examination. It is the contention of the Petitioner that this action of the authorities of the University is arbitrary and unreasonable and should be set right.

3. The opposite parties 1 and 2 in their counter affidavit while generally denying the averments in the writ application stated that sixteen reserved seats in the B.Sc. (Ag.) course in the College of Agriculture, Bhubaneswar are available for admission of VAWs/Non graduate Overseers sponsored by the Agriculture and Co-operation Department, Orissa. It is their specific case that admission against the reserved seats is subject to fulfilment of the minimum required qualification prescribed for the said admissions and for admission into the B.Sc (Ag.) course the minimum eligibility requirements are that the candidate must have passed

B.Sc./ + 2 Science equivalent examination and should have secured a minimum of 50 per cent marks (excluding extra optional marks, if any) in aggregate in H.S.C./S.S.C./equivalent examination. The opposite parties submit that though the Petitioner was a nominee of the State Govt. he could be admitted to the course only if he fulfilled the aforementioned eligibility qualification and since he does not possess the same his request for admission was rightly turned down. These opposite parties while accepting the position that admission of the sponsored candidates is made in pursuance of the scheme formulated by the Govt. of India contend that the scheme does not cast any obligation on them to admit a sponsored candidate who does not possess the eligibility qualification prescribed by the University.

4. In the counter affidavit filed on behalf of opposite party No. 3 it is stated, inter alia, that as per the scheme formulated by the Govt. of India (Annexure-A/3) the State Govt. in the Agriculture and Co-operation Department issued instructions as per letter dated 2-6-1988 to the Directorates of Agriculture and Food Production, Horticulture and Soil Conservation to select eligible candidates to take admission in B.Sc. (Ag.) course for the year 1988-89 in the O.U.A. T. This year (1989-90) the selection committee set up by the State Govt. selected sixteen candidates from the discipline of Agriculture, Horticulture and Soil Conservation of which four candidates including the Petitioner were from the discipline of Soil Conservation. Intimation in this regard was sent on 2-6-1988 from the Joint Secretary to Government to the Directorates with copy to the Registrar, O.U.A.T. (Annexure-B/3). The O.U.A.T. authorities did not raise any objection to the letter (Annexure B/3). When the controversy regarding admission was raised by the University the Secretary, Agriculture and Co-operation Department in his D.O. letter dated 28-8-1989 requested the Vice-Chancellor to allow admission to all the departmental candidates without insisting upon the restriction of securing 50 per cent marks in the H.S.C. Examination. A copy of the letter is annexed to the counter as Annexure-D/3.

5. In the rejoinder filed by him the Petitioner has contended that the eligibility qualification prescribed in the prospectus is intended for the common entrance test and admission to undergraduate programme for the year. It does not cover candidates sponsored by the State Govt. who stand on a completely different footing from other students who are fresh from educational institutions.

6. From the facts discussed in the foregoing paragraphs the position that emerges is that certain number of seats in the B.Sc. (Ag.) course in the O.U.A.T. is being filled up by candidates sponsored by the State Govt. in the Agriculture and Co-operation Department in pursuance of the scheme formulated by the Government of India to provide facility to in-service agriculture workers to improve their educational qualification and expertise; the State Govt. have laid down criteria for selecting the candidates for admission that the candidate must have passed I and./ + 2 Science/equivalent examination and must have experience of five years and on the basis of the said criteria the Petitioner was

one of the candidates selected for admission to the B.Sc. (Ag.) course for the year 1989-90. The O.U.A.T. in its prospectus has laid down the eligibility qualification that the applicant must have passed I. Sc./+2 Science/equivalent examination and he must have secured 50 per cent marks (excluding extra optional marks, if any) in aggregate in H.S.C/S.S.C./equivalent examination.

In course of hearing of the case, a copy of the scheme formulated by the Govt. of India was produced before us. We have carefully perused the same. It is clear that the scheme is intended to provide facility to enable the employees of the State Govt. in the Agriculture sector to improve their educational standard and expertise so that they may render better and more effective service which in turn will help in improving the standards in Agriculture sector. We do not find anything in the scheme which lays down any basic standard of education or requisite percentage of marks to be secured by a candidate. Perhaps the intention was to leave the matter to the State Government and the Universities concerned. Copies of the scheme appear to have been forwarded to all Agriculture Universities in the country. It is necessary and pertinent to mention here that there is a significant difference between the students who are admitted into the B.Sc. (Ag.) course shortly after passing I. Sc./ + 2 Science/equivalent examination and the inservice candidates who have gathered experience over a number of years (minimum five years as prescribed by the State Govt.) and have already acquired certain degree of knowledge/expertise in the line. Further, the intent and purpose of the scheme is to improve the expertise of the inservice Agriculture workers so that they may be more helpful in the field and not merely to acquire academic excellence. By this we should not be understood to be minimising the importance of maintaining a high degree of academic standard in the B.Sc. (Ag.) course. A sponsored candidate like any other student must undoubtedly possess the minimum knowledge to cope with the courses of studies in the B.Sc. (Ag.) course. As noticed earlier, eligibility qualification prescribed by the State Govt. for selection of candidates is I. Sc./ + 2 Science/equivalent examination and experience. It is difficult to understand the specific reason and none has been indicated the counter affidavit filed by opposite parties 1 and 2 why the University insists on 50 per cent marks (excluding the optional subject, if any) in aggregate in the H.S.C./S.S.C. Examination. The only plausible reason appears to be that the candidate should possess a good academic career. But in the case of in service candidates they have already chosen their career and are persons in the line. However, we do not like to delve further into the matter and we would leave it here with the hope that the authorities of the. University will consider the matter carefully before laying down eligibility qualifications in the prospectue in future. They should bear in mind that unless they are in a position to explain the reasonable nexus and the necessity for laying down the eligibility qualifications criticism is likely to be levelled that perhaps the qualifications were prescribed keeping in view some particular candidate or a group of candidates. We hope that such a situation would not come to pass in the case of O.U.A.T., the only Agriculture University in the state.

6. Coming to the case of the Petitioner, we feel that the opposite parties 1 and 2 were not justified in refusing admission to him this year. If the University authorities felt it absolutely necessary to insist on the standard of performance in the H.S.C. or S.S.C. Examination they should have sent prior intimation to the State Govt. and selection for sponsored candidates ought to have been made on that basis. To insist on such qualification at the stage when the selection has been made by the State Govt. and the selected candidate has been relieved from his post, is unfair, unreasonable and arbitrary, particularly so keeping in view the intent and purpose of the scheme formulated by the Central Govt. To our query whether the University had been insisting on the minimum eligibility qualifications prescribed in the prospectus in the case of sponsored candidates in the previous years, the learned Counsel appearing for opposite parties 1 and 2 replied in the affirmative but could not produce any material in support of the same. Therefore, we see no reason to reject the contention of the learned Counsel for the Petitioner that suddenly this year (1989-90) this type of scrutiny was undertaken by the University and in the previous years all sponsored candidates without further scrutiny regarding eligibility qualification were being admitted into the B.Sc. (Ag.) course.

7. On the analysis in the foregoing paragraphs, we are of the view that the action of the opposite parties 1 and 2 refusing admission of the Petitioner to the B.Sc. (Ag.) course was, in the facts and circumstances of the case, arbitrary and unjustified. Accordingly the writ application is allowed, the communication in Annexure 3 is quashed and the opposite parties are directed to take prompt steps to admit the Petitioner to the B.Sc. (Ag.) course in the O.U.A.T. for the year 1989-90. There will however be no order for costs.

A. Pasayat, J.

I agree.

Writ application allowed.