
(2012) 08 MP CK 0007
In the Madhya Pradesh High Court
Case No : Writ Petition No. 5427 of 2012

Sushila Sahu

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 08 MP CK 0007

Hon'ble Judges : U.C. Maheshwari, J;Brij Kishore Dube, J

Bench : Division Bench

Advocate : Yogesh Parashar, for the Appellant; J.P. Mishra, learned counsel for the respondent no.3 and Shri Vivek Khedkar, learned Dy. Advocate General, for respondent no. 1, 2 and 4, for the Respondent

Final Decision : Allowed

Judgement

1. Heard on the question admission. The petitioner has filed this writ petition under Article 226 of the Constitution of India for issuing a suitable writ directing the respondents authority to grant her admission in LL.B. three years degree course - 2012-2013.

2. As per averments of the petition the respondents authorities are not giving admission in the aforesaid course of LL.B. in view of bar created under Rule 28 of the Bar Council of India Rules which has been framed under the provisions of Advocates" Act.

3. By referring Annexure P-1 the order dated 9.12.2011 passed by the Division Bench of this Court in W.P. No. 8170/2011, the petitioner"s counsel argued that her case is squarely covered with this order and prayed to allow this petition on the same terms.

4. Respondents" counsel did not dispute the position that similar question as involved in this petition has been considered by the Court in the aforesaid cited order.

5. After taking into consideration some earlier decision of the Division Bench of this Court passed in W.P. No. 11925/2011, in the aforesaid order of W.P. No. 8170/2011 it was held as under:-

When the rule has been declared ultra vires by the High Court and no stay has been granted by the Hon"ble Supreme Court, in that circumstances, the petitioner cannot be denied admission on the basis of the aforesaid rule.

Hence the petition of the petitioner is allowed. It is held that the petitioner could not be denied admission on account of age limit as prescribed under the Rule 28 of the Bar Council of India Rules under the Advocates Act, 1961. the admission of the petitioner shall be subject to final order, that may be passed by the Hon"ble Supreme Court in the SLP.

6. In view of aforesaid by allowing this petition, it is held that the petitioner could not be denied admission on account of age limit prescribed under Rule 28 of the Bar Council of India Rules under the Advocates Act, 1961 but with a direction that such admission of the petitioner shall be subject to final order that may be passed by the Supreme Court in pending SLP, in which the same question is involved.

7. There shall be no order as to the costs. The petition is disposed of.