

(2013) 12 AP CK 0078

In the Andhra Pradesh High Court

Case No : Writ Petition No. 20940 2010 and C.C. No. 1358 of 2013

Syed Haneef

APPELLANT

Vs

Moulana Azad National Urdu University and two Others

RESPONDENT

Date of Decision : 13-12-2013

Acts Referred:

Citation : (2014) 3 ALD 320 : (2014) 1 ALT 614

Hon'ble Judges : A. Ramalingeswara Rao, J

Bench : Single Bench

Advocate : K.S. Murthy, for the Appellant; B. Adinarayana Rao and Sri K. Ramakanth Reddy, for the Respondent

Final Decision : Disposed Off

Judgement

A. Ramalingeswara Rao, J.—The petitioner is a Teacher working in Primary and Upper-Primary Schools at Dharni, Amaravathi District, Maharashtra. He passed "Sahitya Sudhakar" course from Mumbai Hindi Vidyapeeth which is treated as equivalent to graduation by the Government of India as well as State of Maharashtra. He wanted to pursue B.Ed. course in Maulana Azad National Urdu University, Hyderabad through distance mode and hence he applied for the entrance examination. He appeared for the entrance examination on 22-10-2007, was called for counselling on 19-02-2008 and he was admitted to B.Ed. course (distance mode) after verification of all required original documents on the same day. He paid the fee of Rs. 13,500/- also. He appeared for term-end examination in December-2008 during 29-12-2008 to 04-01-2009 at HGM Azam College of Education Centre, Pune. He was declared to have successfully completed as he secured 332 marks out of 500. He completed second year course also and appeared for term-end examination in the same Centre on 21-12-2009 and in the afternoon, the 1st respondent-University issued a letter dated 11-12-2009 through the Program In-charge of the said Study Centre intimating him of the cancellation of his admission in B.Ed. course along with five others on the ground that the High-level Committee constituted by the University

examined the case of the candidates and reported that Mumbai Hindi Vidyapeeth's degrees were not recognized by UGC. Hence they do not fulfill B.Ed. degree admission conditions and hence the admission of the candidates was cancelled. The Regional Director was informed not to allow the candidates to appear in the term-end examination in 2009. A show-cause notice was issued on 28-04-2010 and the petitioner submitted a detailed reply on 07-05-2010 raising the following grounds:-

(a). The qualification of Hindi Sahitya Sudhakar was mentioned in the application at the time of admission and on the basis of the said qualification only he was admitted in the course. The qualification prescribed in the Prospectus-cum-application form-2008 mentions that candidates should possess Bachelor degree from any recognized University but did not mention that it should be from the University recognized by the UGC and such clarified position was mentioned only in the fresh prospectus of University in 2010.

(b). In the list of fake Universities displayed by the UGC in its website in respect of Maharashtra, Mumbai Hindi Vidyapeeth was not included.

(c). Sahitya Sudhakar from Mumbai Hindi Vidyapeeth was recognized by the Central Hindi Directorate, Government of India, New Delhi.

(d). UGC is an agency awarding grants to its member-Universities but Mumbai Hindi Vidyapeeth is not receiving grant from UGC but receives grants from Government of India and the degrees awarded by the Mumbai Hindi Vidyapeeth is treated as equivalent to B.A. for admission/job/service and even in the Indian Passport these candidates are eligible for ECNR Stamp. Even the Higher and Technical Education Department, Government of Maharashtra in its resolution dated 28-02-2007 resolved that Sahitya Sudhakar from Mumbai Hindi Vidyapeeth is equivalent to B.A.

(e). The grounds mentioned in the show cause notice are irrational as the Prospectus issued in 2008 relates only to entrance test but not for eligibility.

(f). The High Court of A.P. in its judgment dated 09-04-2010 in W.P. No. 872 of 2010 permitted one Samiullah Khan to permit and pursue B.Ed. course.

(g). After issuance of the rank card of the entrance test, the original certificates of all the documents were verified by the authorities on 19-02-2008 and the admission was made after such verification of the documents.

Ultimately, he stated that he did not try to mislead/cheat the University. On the other hand, the University authorities humiliated him mentally/emotionally/psychologically thereby creating irreparable loss to his academic career by cancelling admission to B.Ed. course through distance mode.

2. Even after raising so many grounds, the University passed a cryptic order on 04-06-2010 stating that University has taken a decision that "Sahitya Sudhakar" degree from Mumbai Hindi Vidyapeeth is not equivalent to B.A. or Graduation

and there is no document produced by the Petitioner which can manifest that the degree is recognized by the UGC and hence the admission stood cancelled with immediate effect.

3. Challenging the said order, the Petitioner filed the present Writ Petition and this court passed an interim order on 24-08-2010 directing the University to permit the petitioner to write examination for leftover subjects in pursuance of which the petitioner appeared for the leftover examinations in December-2010. The University filed its counter and also filed a petition to vacate the directions in WVMP No. 5071 of 2010 but no orders have been passed till March-2013. This court directed the declaration of results on 13-03-2013, but the University did not declare the petitioner's results though the results of the examinations were declared on 23-03-2011 itself. Since the results were not declared in spite of direction, Contempt Case No. 1358 of 2013 was filed by the Petitioner. The said CC is coming up along with WVMP No. 5071 of 2010. Ultimately, the Writ Petition came up for final hearing and heard the arguments of the learned Counsel for the Petitioner and the learned Counsel for the Respondent.

4. The case of the petitioner is as set out in the grounds of his reply dated 07-05-2010 as stated above whereas the case of the University from its counter is that the University follows NCTE Rules and admits the candidates having minimum prescribed qualification by NCTE. The autonomous character of the University empowers to fix higher qualification for quality improvement. The advertisement for B.Ed. (distance mode) 2008 indicated three essential qualifications for appearing in the entrance test i.e., (a) the candidates should hold Bachelor degree from recognized University; (b) he must have at least two years full time teaching experience in a recognized School before the last date of submission of application form; and (c) he must have studied Urdu as a language or a medium at 10th or higher level. The petitioner fulfilled only two conditions, viz., "b" and "c". According to the press note issued by the MHRD dated 05-05-1998, Mumbai Hindi Vidyapeeth is a voluntary organization, not a University and the degree certificate awarded by them is not equivalent to a State Examination, Council or University. The institution was recognized to run examinations of Hindi subjects only and the letter issued by the MHRD dated 22-09-2003 clearly manifests that "Sahitya Sudhakar" has been approved as an equivalent to B.A. (Hindi level) by the Government of India and hence it is equivalent to a subject not as a degree. The candidates were given conditional admission with a declaration that the admission can be cancelled if the candidates submit forged/improper information while taking admission and the scrutiny is done at a later stage. Further, candidates also given an undertaking that they will not claim any refund of fee if admission is cancelled because of incorrect submission of documents. It is further stated that the Government of Maharashtra's resolution is applicable within that State and not applicable to Government of India's Institution and Central University. The act of the Petitioner is clearly a case of misrepresentation as he sought admission based on an unauthorized degree of a voluntary organization. This resulted in denial of

admission to a genuine candidate who could have been admitted in his place. The University had set up a Committee which unanimously decided to prevent the candidates (who were admitted on Mumbai Hindi Vidyapeeth certificate basis) from appearing in the term-end examination. Mumbai Hindi Vidyapeeth is not in the UGC list of recognized Universities and hence not found in the list of fake Universities. The University is examining the case of Syed Shakeel mentioned by the Petitioner and shall take appropriate action. Thus the University answered all the grounds raised by the Petitioner in his reply dated 07-05-2010 but they did not reflect in the final order passed on 04-06-2010.

5. Now the point that arises for consideration is:-

Whether the action of the University in not treating "Sahitya Sudhakar" of Mumbai Hindi Vidyapeeth as equivalent to B.A., whether the University was right in cancelling the admission on the ground of non-fulfillment of the qualifications prescribed by it and to what relief the Petitioner is entitled in the facts and circumstances of the case?

6. Maulana Azad National Urdu University, Hyderabad was established by the Government of India as a Central University by an Act of Parliament in 1997. The University issued a prospectus-cum-application form 2008 for admission to the B.Ed. course approved by the National Council for Teacher Education (NCTE) through distance mode in Urdu medium for in-service graduate teachers. The eligibility for admission to the said course is stated to be a Bachelor degree from any recognized University, candidates should have teaching experience for two years (full time, either temporary or permanent in any of the Primary, Middle, Secondary or Higher Secondary Madrasa or School) which is under the management of the Central or State Government or in the States under the administration of the Central Government and the candidates should have taken Urdu as one of the subjects in 10th Class or equivalent recognized course and the final decision about the eligibility will be as per the Rules of NCTE. There is no dispute that the Petitioner fulfilled the qualification of teaching experience and Urdu as one of the subjects in 10th Class; whereas the dispute centres round the Bachelor degree from any recognized University. The Petitioner was qualified in "Sahitya Sudhakar" degree from Mumbai Hindi Vidyapeeth. As per the communication of Government of Maharashtra, Higher and Technical Education Department, dated 28-02-2007 "Sahitya Sudhakar" examination conducted by Mumbai Hindi Vidyapeeth has been shown equivalent to the B.A. examination. The Government of India, Central Hindi Directorate (Ministry of Human Resource Development) in its communication dated 22-09-2003 informed to the Secretary, Market Committee, Sular Ghat, Sangrur District, Punjab that "Sahitya Sudhakar" examination conducted by the Mumbai Hindi Vidyapeeth was approved as an equivalent to B.A. (Hindi level) by the Government of India. The NCTE in its notification dated 13-11-2002 framed regulations for recognition of teacher education programmes, as per which the norms and standards for B.Ed. (Open and Distance Learning System) were prescribed. According to it, the teachers

serving in a recognized School with a Bachelor degree and having at least two years experience are eligible for admission to the course. The University was given freedom to develop a suitable procedure for the selection of the candidates.

7. Based on this material, it is contended by the learned Counsel for the Petitioner that the Petitioner fulfilled the requirement of a graduation as prescribed by the NCTE. On the other hand, it is contended by the learned Counsel for the Respondent that Mumbai Hindi Vidyapeeth is not a recognized University by the UGC and the "Sahitya Sudhakar" degree cannot be held to be a degree from a recognized University within the meaning of the required qualification prescribed by the University in its prospectus.

8. The National Council for Teacher Education Act, 1993 was enacted for the purpose of achieving planned and coordinated development for the teacher education system through out the country, the regulation and proper maintenance of norms and standards in the teacher education system and for matters connected therewith. One of the functions of the Council u/s 12 of the Act is to lay down norms for any specified category of courses or training in the teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum. Section 32 of the Act empowers the Council to make regulations to carry out the provisions of the Act. Rules were framed in 1997 called the National Council for Teacher Education Rules 1997. The Regulations of 2002, prescribing the qualifications were made in exercise of the power conferred u/s 32 read with Sections 14 and 15 of the Act. As already stated above, it speaks of a Bachelor degree as one of the requisite qualifications. The definition of "Bachelor degree" is not found anywhere in the provisions of the Act. Section 22 of the University Grants Commissions Act, 1956 provides that the right of conferring or granting degree shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act, or a State Act or an institution deemed to be a University u/s 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees. Sub-section 3 of Section 22 of the University Grants Commissions Act says that "degree" means any such degree as may, with the previous approval of the Central Government, be specified in this behalf by Commission, by notification in the Official Gazette.

9. It is not the case of the Petitioner that Mumbai Hindi Vidyapeeth is a University established under a Central Act or Provincial Act or a State Act or an Institution deemed to be a University u/s 3 of the University Grants Commissions Act or an Institution specially empowered by an Act of Parliament to confer or grant degrees. The Respondent-University was more specific in indicating in the prospectus that the candidates should have a Bachelor degree from any recognised University. Hence the contention of the Petitioner that Mumbai Hindi Vidyapeeth does not figure in the list of fake Universities published by the UGC in respect of Maharashtra State is of no avail since the Mumbai Hindi Vidyapeeth is

not a University at all, as rightly contended by the learned Counsel for the Respondent. Though "Sahitya Sudhakar" was recognized as an equivalent to B.A. (Hindi level) by the Government of India and Government of Maharashtra, that recognition does not extend to the admissions made by a University like 1st Respondent-University established under an Act of Parliament. The said recognition has to be confined to the respective recognising bodies for the specified purposes only.

10. The learned Counsel for the Petitioner relied on an order of this court in W.A. No. 965 of 2005 dated 22-08-2005 delivered by a Division Bench. In the said case also, the Appellant/Writ Petitioner who was admitted to B.Ed. course was not allowed to sit for the examination on the ground that she did not fulfill the eligibility norms prescribed by G.O.Rt. No. 169, Education Department, dated 05-02-2004 of the Government of Andhra Pradesh and a learned single Judge of this court dismissed her Writ Petition holding that she was not eligible in terms of the said G.O. In the Writ Appeal, the Division Bench compared the norms prescribed by the State Government and norms and standards prescribed by the NCTE. The NCTE prescribed that a candidate should have 45% marks in Bachelor degree/Master degree whereas the State Government prescribed that candidates should have 45% in Part. II (group subjects). The Division Bench did not give a clear finding with regard to status of the regulations prescribed by NCTE vis-a-vis the regulations of the State Government but set aside the order of the learned single Judge and allowed the Writ Appeal. However, in the said case there was no dispute with regard to holding of a degree by the candidate but the dispute related to the aggregate percentage of marks in the degree and the percentage in Part II (group subjects). In the instant case, the basic qualification of the candidates itself is defective in the sense that the Petitioner possessed "Sahitya Sudhakar" issued by the Mumbai Hindi Vidyapeeth, whereas the prescribed qualification is a Bachelor degree recognized by the University (though NCTE prescribes only a Bachelor's degree).

11. The learned counsel for the Petitioner relied on a decision reported in Visveswaraya Technological University and Another Vs. Krishnendu Halder and Others, but it goes against the contention advanced by the learned Counsel for the Petitioner. In the said decision, the Hon'ble Supreme Court summarising the law laid down by the earlier decisions, held that while prescribing the eligibility criteria for admission to institutions of higher education, the State/University cannot adversely affect the standards laid down by the central body/AICTE. The term "adversely affect the standards" refers to lowering of the norms laid by the central body/AICTE. Prescribing higher standards for admission by laying down qualifications in addition to or higher than those prescribed by AICTE, consistent with the object of promoting higher standards and excellence in higher education will not be considered as adversely affecting the standards laid down by the central body/AICTE. The Court also held that determination of standards, being part of academic policy of the University, are beyond the purview of judicial review, unless it is established that such standards are arbitrary or "adversely

affect" the standards, if any, fixed by the Central body under a Central enactment.

12. The other decision cited by the learned Counsel for the Petitioner is Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P. and Others, wherein the Hon"ble Supreme Court held that NCTE is the paramount body for granting recognition and ensuring maintenance of standard of education in teacher training institutions and it has primacy over State Government and University concerned in this regard. The principle laid down in the said decision has not been violated in the instant case also as the NCTE regulations prescribed Bachelor degree whereas the prospectus of the University was more specific in stating that Bachelor degree should be from a recognised University as the said degree can be granted only by University or an Institution as stated in Section 22 of the University Grants Commissions Act, 1956. In view of the above legal position, it cannot be held that "Sahitya Sudhakar" possessed by the Petitioner as equivalent to Bachelor degree from a recognized University as prescribed in the prospectus issued by the 1st Respondent.

13. He also relied on a decision between Medical Council of India Vs. State of Karnataka and Others, and contends that the NCTE alone can fix the qualifications for admissions and the University cannot modify the same. The decision relied on by the learned Counsel for the Petitioner was a case that arose out of admission to medical colleges. In the said decision, it was held by the Hon"ble Supreme Court that it is Medical Council/Dental Council which can prescribe the number of students to be admitted in medical course/dental course in a Medical College or Institution. The Central Government can direct the increase in number of admissions but only on the recommendation of the Medical Council. The University and the State Government had no authority to allow the increase in number of admissions. The said decision is not helpful to the case of the Petitioner as the said case relates to the fixation of number of students, whereas the present case relates to the prescription of qualifications. The University has not violated nor improved upon the qualification prescribed by the NCTE but merely clarified the position by stating that the Bachelor Degree should be from a recognized University and it is not contrary to the qualification prescribed by the NCTE. The next point that comes for consideration is with regard to relief that should be granted to the Petitioner in the instant case. The Petitioner did not suppress any fact while seeking admission. The Petitioner appeared for the entrance examination on 22-10-2007 and was called for counselling on 19-02-2008 and after verification of all the original documents he was admitted on 19-02-2008 itself. He completed 1st year B.Ed. course and appeared term-end examination in 2008 during 29-12-2008 to 04-01-2009 and secured 332 out of 500 marks and thus successfully completed. He also completed II year B.Ed. course and appeared for term-end examination on 21-12-2009. On that day he was issued a letter dated 11-12-2009 regarding cancellation of his admission in B.Ed. course. Pursuant to the interim directions granted by this court on 24-08-2010 permitting him to appear for leftover

subjects of 2nd year, he appeared for the examinations in December-2010 but the results of the examinations were not declared even though the results of the other candidates declared on 23-03-2011 itself. The Hon'ble Supreme Court in *Chowdhury Navin Hemabhai and Others Vs. The State of Gujarat and Others*, , in exercise of its powers under Article 142 of the Constitution, directed the admission of the appellants to MBBS course should not be disturbed as they secured admission not due to their fault but due to the fault of the Rule making authority. Though this court is not having a power similar to Article 142 of the Constitution of India, this court, also being a Constitutional court, is a court of equity and can do justice to the parties depending upon the facts and circumstances of the case. The Petitioner in the instant case appeared for the entrance examination and became successful. He completed two years course and appeared for the examinations also. He was successful in the 1st year, the results of the 2nd year have not been announced. The qualifications of the Petitioner were scrutinised by the University at the time of admission but did not point out the lapse immediately but only when the Petitioner was writing the 2nd year examination. The Petitioner did not suppress any fact. He should not be punished for the lapse of the University. The Petitioner is not securing a primary degree but he sought admission to a teacher training course to improve his career prospects. No public interest would suffer if the results of the Petitioner are declared. The decision in this case is applicable only on the basis of the facts of this case and cannot be construed as a precedent. Hence it is just and equitable that the results of the Petitioner pursuant to his appearance in the 2nd year examination in December-2010 be declared in order to clear his academic position for B.Ed. course. 16. Accordingly, the 1st Respondent is directed to declare the results of the Petitioner pursuant to his appearance in December-2010 examinations for B.Ed. course through distance mode forthwith.

The Writ Petition is accordingly disposed of. No costs.

In view of the non-disposal of WVMP No. 5071 of 2010 which was coming up along with Writ Petition and inspite of the subsequent order dated 13-03-2013 in WPMP No. 23655 of 2011 to declare the results of the Petitioner, the results of the Petitioner were not declared by the 1st Respondent-University and the Writ Petition is heard finally. In view of the non-disposal of WVMP No. 5071 of 2010 the Respondents are not in a position to take a decision with regard to declaration of his results and it cannot be held that they have willfully disobeyed the orders of this court in WPMP No. 23655 of 2011 dated 13-03-2013. Consequently, CC 1358 of 2013 is dismissed.