

(2014) 09 RAJ CK 0034

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 765/2014

The Dean and Faculty Chairman, Swami Keshwanand
Rajasthan Agriculture University and Others

APPELLANT

Vs

Guddi and Others

RESPONDENT

Date of Decision : 22-09-2014

Acts Referred:

Citation : (2014) 09 RAJ CK 0034

Hon'ble Judges : Sunil Ambwani, Acting. C.J.; Vijay Bishnoi, J.

Bench : Division Bench

Advocate : Manish Shishodia, for the Appellant; Parvej Moyal, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. Having secured 72% marks in Secondary Examination with the subjects in Physics, Chemistry and Biology by the respondent-1 (petitioner), who is a candidate belonging to Scheduled Caste category, she appeared in the Joint Entrance Test (JET) - 2013 for various programmes including B.Sc. (Hons.) Agriculture. She secured 33.48% marks in the JET-2013, whereas the cut off marks in her category for admission were 18.44%.
3. The respondent No. 1 with 33.48% marks, applied for admission in B.Sc. (Hons.) Agriculture course. The University admitted her to the said course. After her admission, the University found that she, having opted "Home Science" as one of the subjects in the Joint Entrance Test, could not be admitted in B.Sc. (Hons.) Agriculture and cancelled her admission. By that time, the respondent No. 1-petitioner, admitted in the college of Agriculture, Mandore, Jodhpur and started pursuing her studies.
4. An interim order was passed by learned Single Judge allowing her to proceed with her studies in B.Sc. (Hons.) Agriculture. The interim order continued until it

was vacated on a day in the absence of the counsel appearing for respondent No. 1-petitioner.

5. By the impugned judgment, learned Single Judge, considering the facts and circumstances of the case and judgments of Hon"ble Supreme Court cited by learned counsel for the University, allowed the writ petition with the finding that the respondent No. 1-petitioner, was eligible for the B.Sc. (Hons.) Agriculture Programme in the College of Agriculture, Mandore, Jodhpur. She had committed a bona fide error in opting for B.Sc. (Hons.) Agriculture which is not permissible for the students, who had opted for the subject "Home Science" as well as all the subjects given in Joint Entrance Test (JET) - 2013. She was given admission by way of a bona fide error which was thereafter sought to be rectified. Learned Single Judge observed in his order that by admitting the petitioner to the B.Sc. (Hons.) Course in Agriculture in College of Agriculture, Mandor, Jodhpur, no one has suffered a loss as there are still number of seats vacant in the course which were not taken up by any students, who had appeared in the Joint Entrance Test, 2013.

6. Learned counsel for the University submits that the entire judgment of learned Single Judge is based on the principles of equity which is not attracted in college admission, when the admission is wrongly given. He submits that it was clearly provided in the Information Booklet with guidelines for filling up of option forms (online) for admission in different colleges under SKRAU, Bikaner & MPUAT, Udaipur for Joint Entrance Test (JET) that a candidate, who opts for "Home Science" as a subject in JET, will not be admitted in B.Sc. (Hons.) Agriculture Course. She took a chance in securing higher marks, which are ordinarily awarded in the subject of Home Science, as compared to other subjects. Despite clear guidelines, she opted for B.Sc. (Hons.) Agriculture Course which was given to her by the University. The error was rectified at the earliest opportunity.

7. Learned counsel appearing for the University further submits that learned Single Judge has recorded a finding that the petitioner, having opted for the subject "Home Science", as one of the subjects for Joint Entrance Test (JET) - 2013, could not be admitted for B.Sc. (Hons.) Agriculture Course. He however, on misplaced application of the principles in equity has allowed the petitioner to pursue B.Sc. (Hons.) Agriculture Programme.

8. Learned counsel for the appellants has relied upon the judgments of Hon"ble Supreme Court rendered in case of National Council for Teacher Education and Another Vs. Venus Public Education Society and Others, , Visveswaraya Technological University and Another Vs. Krishnendu Halder and Others, and Priyadarshini College of Computer Science and Another Vs. Manish Kumar and Others, in which it was held that equity cannot be brought into consideration of the matters for admission in the Universities. Learned counsel for the appellant submits that the old view that if a student has been wrongly admitted and has perused the course for some time, may be permitted to continue, as any order cancelling the admission at a later stage, will affect the career of a student, has

been clearly overruled in all these three judgments.

9. We have perused the judgments and find that the facts of present case are quite different.

10. In Vishveswaraya Technological University's case (supra), Hon''ble Supreme Court decided the matter with reference to need to fill up seats, which cannot be permitted to override to maintain quality to education. It was held that fixing of higher standards, marginally higher than the minimum, is seldom the reason for seats in some colleges remaining vacant or unfilled during a particular year and, therefore, where the marks fall short of the eligibility criteria fixed by the State/ University or any college which admits such students directly under the management quota, cannot contend that the admission of the students found qualified under the criteria fixed by AICTE, should be approved even if they do not fulfill the higher eligibility criteria fixed by the State/University.

11. In National Council for Teacher Education's case (supra), the Hon''ble Supreme Court considered a question as to whether on principles of equity, the educational institutions can be allowed to relax the norms and standards of the Teachers Education fixed by the National Council Teachers Education Act. While referring to the Regulation 5(5) of NCTE (Norms and Procedure) Regulation 2009, it was held that where there is a combat between the truth and falsehood, battle between justice and injustice, the contestation between the accord and discord, the collision between fairness and manipulation, the scuffle between the sacrosanctity of the majesty of law and its abuses and the clash between the mandated principles and invocation of sympathy, the Court should not interfere.

12. In Priyadarshini College of Computer Science's case (supra), a false declaration by a candidate regarding eligibility criteria and its conditions was under consideration of the Court.

13. We do not find that any of these conditions are called for consideration in the case at hand to deny to the petitioner to continue with the B.Sc. (Hons.) Agriculture Course. In the present case, the principles of equity were appropriately called in aid to direct the University to allow her to continue to study in B.Sc. (Hons.) Agriculture Course.

14. As we have observed earlier, the respondent No. 1 is a meritorious student. She had secured 72% marks in Secondary Examination which is sufficient to qualify for admission to the graduate course in Engineering subjects. She had secured 33.48% in Scheduled Caste category in which the cut off marks for admission were 18.44%. She appeared in the Joint Entrance Test (JET) - 2013 with the subjects Biology, Agriculture and Home Science. The contention of learned counsel that she had deliberately opted Home Science, cannot be accepted. The subject of Home Science is one of the subjects, which student could have opted in JET-2013. She is 19 years old. She opted for and was selected on the basis of her merit position for admission in B.Sc. (Hons.) Agriculture Course and was given admission. It cannot thus be said that she was

not eligible, or was not entitled to be admitted to the Course. The admission test is taken only to shortlist the eligible candidates and to rationalise their options. The seats of B.Sc. (Hons.) Agriculture are still lying vacant. She has not taken the seat by misrepresentation nor has denied the chance of admission of any other student.

15. We are of the view that no fault or misrepresentation was attributed to the petitioner's option, accepted by the University. She has now completed the first and second semesters and is studying for the third semester of the Course.

16. For the aforesaid reasons, we do not find any error to interfere with the judgment of learned Single Judge. The special appeal is dismissed.