

(2023) 02 KL CK 0212

In the High Court Of Kerala

Case No : Writ Petition (C) No.1947 Of 2023

Theertha Mohan

APPELLANT

Vs

Sree Sankaracharya University Of Sanskrit

RESPONDENT

Date of Decision : 21-02-2023

Acts Referred:

Citation : (2023) 02 KL CK 0212

Hon'ble Judges : Sathish Ninan, J

Bench : Single Bench

Advocate : Nisha George, George Poonthottam, A.L.Navaneeth Krishnan, M.Kabani Dinesh, Dinesh Mathew. J. Muricken, S. Krishnamoorthy

Judgement

Sathish Ninan, J.

1. The first respondent University issued Ext.P3 notification, inviting applications for admission to its PhD programme, 2022. Pursuant thereto, a written test followed by interview were held. Though the petitioners secured 2nd and 8th ranks respectively in the written test, their names did not find a place in the final rank list. It is accordingly that the petitioners are before this Court. They allege illegality in the process of selection.

2. Heard learned Senior Counsel Sri.George Poonthottam on behalf of the petitioners, Sri.Dinesh Mathew J. Muricken on behalf of respondents 1 to 4, and Sri.S.Krishnamoorthy, the learned Central Government Counsel for the 5th respondent. In spite of service of notice on respondents 6 to 23 who are the other candidates in the rank list, there is no appearance.

3. The challenge against the process of selection is on two grounds; firstly, the selection was based on Ext.P1 guidelines of UGC dated 05.05.2016 when the UGC had notified a new set of regulations(Ext.P2 guidelines of UGC dated 07.11.2022) with regard to admission to Ph.D programmes; secondly, even as per Ext.P1 UGC regulations, the first respondent was bound to take into consideration the marks scored in the written examination along with the marks

secured in the interview for preparing the rank list. The marks obtained in the entrance test ought to be added with the marks secured at interview. The present rank list prepared solely based on the marks obtained in interview is in violation of what is contemplated under Ext.P1 UGC regulation, it is contended.

4. Learned Standing Counsel appearing for the University would contend that the fresh regulations of the UGC (Ext.P2) were notified only on 07.11.2022 which is beyond the last date fixed for submission of applications which was on 02.11.2022. Since the selection process had already gone forward and the last date fixed for submission of the applications were over, the University was bound to conduct selection in terms of Ext.P3 notification which was issued adhering to the then existing regulations of the UGC (Ext.P1). As per Ext.P3 notification and the then existing UGC regulations (Ext.P1), selection was to be a two stage process whereunder, 50% marks in the entrance test was required to qualify for the interview and thereafter the selection was to be solely based on the marks in the interview. The rank list was prepared accordingly and is not flawed, it is contended.

5. Ext.P3 notification was issued by the University in adherence to Ext.P1 Regulations of the UGC. Ext.P3 notification is dated 14.10.2022. At the relevant time, the UGC regulations that were in force were the Regulations of 2016, dated 05.05.2016 (Ext.P1). Though as per Ext.P3 the last date fixed for submission of application was 27.10.2022, as per Ext.P4, the date was extended to 02.11.2022. In the schedule for admission published by the University (Ext.P5), the date fixed for downloading of hall tickets was 07.11.2022, and the date for entrance examination was 15.11.2022.

6. In the meanwhile, on 07.11.2022, the UGC notified its Regulations of 2022(Ext.P2). Ext.P2 stipulated that the selection was to be based on entrance test with a weightage of 70% and interviews/viva-voce for 30%. However, as per Exts.P1 and P3, it is through an entrance test with qualifying marks as 50% followed by interview/viva-voce.

7. Relying on various judgments of the Apex Court, the learned Senior Counsel for the petitioners would contend that, when UGC regulations are notified, they automatically apply to the selection process. Whether it was adopted by the University or not is not of any consequence, he submits.

8. Here, Ext.P3 notification by the University is dated 14.10.2022. Applications were invited. The process of selection commenced. It was on the date fixed for downloading of the hall tickets that the new UGC regulations were notified. There is difference in the eligibility criteria fixed under Ext.P1 UGC notification 2016 and Ext.P2 UGC notification 2022. The process of selection had gone forward and reached the stage of downloading of hall tickets; even the eligibility criteria prescribed under Exts.P1 and P2 were different. Therefore, the University could not be faulted for having proceeded with the process of selection. Ext.P2 notification could only be prospective and would not affect the selection process

that has already commenced. Further, after having participated in the selection process without any demur, the petitioners are stopped from challenging the conduct of selection based on Exts.P1 and P3. Therefore, the first ground of challenge fails.

9. Now coming to the second contention, the relevant clauses in Ext.P1 UGC Regulations of 2016 are clauses 5.4, 5.4.1 and 5.4.2. They read thus:-

"5.4 HEIs as mentioned in Clause 1.2 shall admit candidates by a two stage process through :

5.4.1 An entrance Test shall be qualifying with qualifying marks as 50%. The syllabus of the Entrance Test shall consist of 50% of research methodology and 50% shall be subject specific. The Entrance Test shall be conducted at the Centre(s) notified in advance (changes of Centres, if any, also to be notified well in advance) at the level of the individual HEI as mentioned in clause 1.2; and

5.4.2 an interview/viva-voce to be organized by the HEI as mentioned in clause 1.2 when the candidates are required to discuss their research interest/area through a presentation before a duly constituted Department Research Committee."

The relevant clauses in Ext.P3 notification issued by the University relating to the process of admission are:-

"(a) Admission :- Admission to the Ph.D programme shall be through an Entrance Examination and an interview conducted by the concerned academic departments.

(b) Entrance Examination :- The Entrance Examination shall carry 100 marks and the question papers have to be provided by the respective Heads of the Departments. Based on the performance of the candidates in the entrance examination, a list of qualified candidates will be prepared for each department. The candidate who secure 50% marks or above in the entrance examination alone will be qualified.

(c) Selection :- The candidates who are qualified in the written entrance examination shall be interviewed by the Research Committee of the Department. Interview shall be based on the preliminary research proposal presented by the candidates.

10. The relevant clauses in Exts.P1 and P3 referred to above indicate that, the process of selection is through an entrance examination and an interview. While it is true that a minimum cut off mark in the entrance examination is prescribed as a qualifying mark, neither Ext.P1 nor Ext.P3 stipulate that selection from among the qualified candidates will be solely based on interview. Pertinently, in both Ext.P1 notification as well as Ext.P3 notification, it is stated that the admission will be held through entrance examination and interview. Since the notifications does not exclude the marks obtained in the written examination, it

is only fair that the process of selection as mentioned in the notification be understood as, an integrated two stage process consisting of written examination and interview. The final mark list is to be prepared by adding up the scores obtained for both. Incidentally it is also to be mentioned that, if the selection process is to be solely on an interview, then it would be giving too much leeway, giving room for unnecessary allegations. Therefore, the process of selection notified under Ext.P3 in terms of Ext.P1 UGC Regulation has to be understood as, by adding up the marks obtained by a candidate in the entrance examination and interview. The rank list is to be prepared based on the same. It is declared accordingly.

11. It is not in dispute that the present rank list (Ext.P15) was prepared solely based on the marks in the interview. It having not been prepared in the manner as declared above is liable to be quashed. A fresh rank list is to be prepared and published in the manner as held in this judgment.

Resultantly, the writ petition is ordered as hereunder:-

- (i) Ext.P15 Rank list is quashed.
- (ii) It is declared that rank list pursuant to Ext.P3 notification is to be prepared by consolidating the marks obtained in the entrance examination and interview.
- (iii) Fresh rank list, prepared as above, shall be published within a period of one week from today.
- (iv) It is made clear that, interference under this judgment will stand confined to the rank list in question in this writ petition.