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**(1973) 03 RAJ CK 0012**  
**In the Rajasthan High Court**  
**Case No : Special Appeal No. 24 of 1973**

University of Rajasthan

APPELLANT

Vs

Roshanlal Seth

RESPONDENT

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**Date of Decision :** 23-03-1973

**Acts Referred:**

Rajasthan University Regulations — Regulation 12

**Citation :** (1973) RLW 423 : (1973) 6 WLN 257

**Hon'ble Judges :** B.P. Beri, C.J.; M.L. Joshi, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## Judgement

B.P. Beri, C.J.—Roshanlal Seth appeared at the M.A. final examination held by the University of Rajasthan in the year 1972 and was declared unsuccessful because he had failed to obtain 36 percent aggregate marks in the final examination of the Master of Arts degree in the subject of Economics. He came to the Court with a plea that if his marks in the previous and the final M A. examination coupled with the viva voce test were totalled he had secured more than 36 percent marks and he was thus entitled to be declared successful. The learned Single Judge after examining the relevant provisions of the Rajasthan University Regulations and Ordinance upheld the contention of the petitioner and directed the University of Rajasthan to declare Seth to be successful. The University feeling aggrieved by that judgment has come up in appeal.

2. Mr. Kasliwal appearing for the University urged that upon a true construction of Regulation 12, a candidate must obtain 36 percent aggregate marks independently in the previous and the final examinations. Mr. Sagarmal Mehta canvassed the view taken by the learned Single Judge that it is the totality of marks obtained in both the examinations which determined the success or otherwise of a candidate.

3. The relevant provision which calls for interpretation is Regulation 12, the material portion whereof reads as follows:

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For M. A Examination taken either at the end of the two year integrated course of study or in a part viz., the Previous & the Final, candidates must obtain for a pass at least 36 percent of the aggregate marks in each subject, provided that if candidate fails to secure 25 percent marks in each individual paper and also in the viva-voce tests wherever prescribed, he will be deemed to have failed in the examination notwithstanding his having obtained the minimum percentage of marks required in the aggregate for the examination. The marks of the two examinations, Previous & Final, will count together for a place on the pass list of the Final Examinations. No division will be assigned on the result of the Previous Examination.

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(Italics is ours)

4. Mr. Kasliwal's stress is on the fact the examination being not of an integrated course of study the candidates must obtain for a pass at least 36 percent of the aggregate marks in the previous and the final examination separately. While Mr. Sagarmal's emphasis is on the word "aggregate". The relevant clause when truncated for our purpose would in our opinion read: "For M.A. examination...candidates must obtain for a pass at least 36 per cent of the aggregate marks in each subject." The question which arises for our consideration is in regard to the true meaning of the word "subject". Reference to Ordinance 213 (page 393) would give us an unambiguous answer. The material portion for the purposes of our case would read:

The subject of examination shall be one of the following:

(1) to (4) ...

(5) Economics

(6) to (15) ...

The respondent before us had taken the M.A. examination in the subject of Economics. If the interpretation suggested by Mr. Kasliwal was accepted it would mean as if the M.A. Previous examination had one subject and the final examination had another which indeed has never been the University's case. The subject is one a composite while, namely, Economics. It is the evaluation of a candidate's competence in the subject as a whole upto a standard fixed at 36 percent that entitles him to the Degree of Master of Arts. For the purpose of maintaining a general level of efficiency the Regulation clearly indicates that in each paper such level shall not fall below 25 per cent But the general level for a mere pass is not expected to be higher than 36 per cent. The plain grammatical meaning of the word "aggregate" as given in the Webster's Third New

International Dictionary Volume 1, 1966 edition page 41 column 2 is "A mass or body of units or parts somewhat loosely associated with one another: (2) The whole sum or amount: Sum total...." In Wharton's Law

Lexicon the word aggregate has been defined as follows:

Aggregate, a collection of individuals, units, or things, in order to form a whole.

The "whole" before us is clearly the subject. The units are the papers and it is the totality from which the evaluation is required to be made. Our conclusion finds ample support from the intrinsic evidence contained in the Regulation 12 itself. It is ordained that the marks of the two examinations will count together for a place on the merit list of the final examination. In other words the comparative merits of candidates inter so shall be regulated by the totality of the marks in both the examinations. Negatively the Regulation declares that no division shall be assigned to a candidate on the result of the previous examination alone. We are, therefore, in agreement with the view taken by the learned Single Judge that the respondent Roshanlal Seth having obtained 36 percent marks in the aggregate in both the previous and the final examinations put together should have been declared successful.

5. One more argument of Mr. Kasliwal might be noticed that the University has been consistently taking this view in regard to the interpretation of Regulation 12. The answer to this argument, assuming it to be correct, can be best put in the words of the House of Lords in *Sutters v. Briggs* 1922-1 AC 1 at page 8 when Lord Birkenhead observed, "The consequence of this view of Section 2 of Gaming Act, 1835, will no doubt be extremely inconvenient to many persons. But this is not a matter proper to influence the House unless in a doubtful case affording foot-hold for balanced speculation as to probable intention of the legislature." We might also refer to the observations of Lord Denning M.R. when he said in *Strend Securities Ltd. v. Casewell* 1965 Chancery 958 "We cannot allow the Registrar by his practice to make bad law and it is bad law to be insisted on the lessee to produce his land certificate to which he has no right?."

6. In our opinion, erroneous interpretation however honestly entertained cannot ordinarily be permitted to be perpetuated

7. The result is, this appeal fails and is dismissed. There will be no orders as to costs.