

(2004) 03 RAJ CK 0014
In the Rajasthan High Court
Case No : Civil Writ Petition No. 50 of 2004

Vandana Chouhan (Miss)

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 25-03-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 1 RLW 245 : (2004) 3 WLC 442

Hon'ble Judges : Sunil Kumar Garg, J

Bench : Single Bench

Advocate : Sangeet Lodha, for the Appellant; Chandralekha, Dy. G.A., for the Respondent

Final Decision : Dismissed

Judgement

Sunil Kumar Garg, J.—This writ petition under Article 226 of the Constitution of India has been filed by the petitioner against the respondents on 10.11.2003 with the prayer that by an appropriate writ, order or direction, the respondents be directed to condone the deficiency upto the extent of 5 marks in the subject Advance Micro Processor & Application (EL 411) wherein the petitioner has been declared failed and on her being declared successful, the respondents be directed to issue Diploma in Engineering in favour of the petitioner and in the alternative, the respondents be directed to allow the petitioner to appear in special examination to clear the subject Advance Micro Processor and Application (EL 411) and if she gets success in the special examination then the respondents be directed to issue Diploma in Engineering in favour of the petitioner.

2. The case of the petitioner put forward by her in this writ petition is as follows:-

The Board of Technical Education, Rajasthan Jodhpur has framed the Rules for Diploma Programme in Engineering under Multipoint Entry and Credit System from year 1994-95 and onwards (hereinafter referred to as "MECS Scheme") and

as per Rule 2 of the Rules of MECS Scheme, a candidate in order to secure the admission in the aforesaid Diploma Programme is required to possess minimum qualification i.e. 10+ or 10+2 Scheme of the Board of Secondary Education, Rajasthan or equivalent with a minimum of 60% marks in Science and Mathematics. A copy of the Rules of MECS Scheme is marked as Annex. 1.

The petitioner being eligible for admission in Diploma Programme under MECS Scheme applied for the same and the petitioner was given admission on the basis of merit in Diploma Programme (Electronics Engineering) under the MECS Scheme for the Session commencing from 1997-98 in Government Women Polytechnic College, Ajmer and her SPN Number is EL 97342/19/08 and later on, she was transferred to R.K. Khetan Polytechnic College, Jaipur.

The further case of the petitioner is that as per Rules 3 of the Rules of MECS Scheme, duration of Diploma Programme is 3 years for general and 3-1/2 years for Sandwich Programme. However, a student can complete the Diploma Programme even in a short period depending on his qualification type and pace.

The further case of the petitioner is that as per Rule .7.1 of the Rules of MECS Scheme, to earn credit of a course, a candidate is required to obtain a minimum of 35% marks in the theory examination, 40% in practical examination and 40% in internal assessment and for award of Diploma in any programme (General), a student has to, obtain the minimum of 140 credits as specified below:-

Credits		Category	Minimum	Earned
49	i)	Foundation Courses	60	6
	ii)	Hard Core Courses	15	
	iii)	Soft Core Course	10	
	iv)	Advanced Technology Courses	In-specified	6

The further case of the petitioner is that she appeared in various examinations conducted by the respondents No. 2. The Board of Technical Education since her admission under the MECS Scheme. However, she was not able to secure minimum of 140 credits required for award of Diploma by way of making 12 attempts in maximum 6 academic years from the year of her enrolment and therefore, as per provisions of Rule 8.3 of the Rules of MECS Scheme, her enrolment was cancelled through mark- sheet Annex.2.

The further case of the petitioner is that she secured maximum credits in Foundation Courses, Hard Core Courses and Soft Core Courses, but she could not earn minimum credit in Advanced Technology Courses or Unspecified and consequently, she could not also earn minimum 140 credits for the award of Diploma under the MECS Scheme.

The further case of the petitioner is that before introduction of the MECS Scheme (Annex. 1), the admissions in Diploma Courses in Engineering were regulation by the Annual Scheme known as "Ordinance and Regulation for Diploma Courses in Engineering", a copy of which is marked as Annex.3 and under the Annual

Scheme, there was a provision that if a candidate failed in theory, sessional and practical, the deficiency to the extent of 5 marks in a subject and upto 10 marks in a session could be condoned by giving grace marks and not only this, in some papers, there was a provision for appearing in supplementary or special examination.

The further case, of the petitioner is that since the MECS Scheme (Annex. 1) was brought to an end and in the year 2000, for Diploma Courses in Engineering, Semester Scheme 2000 was introduced and a copy of which is marked as Annex.4 and as per Clause 7.4 of the Semester Scheme 9000 (Annex.4), the deficiency to the extent of 5 marks in a subject and upto 10 marks in a semester can be condoned by the Chairman.

The further case of the petitioner is that similarly, even in MBBS Course, students are entitled to complete their course in any number of years.

The further case of the petitioner is that vide order dated 4.11.2003 (Annex.5), the provisions with regard to deficiency provided in the Semester Scheme 2000 were further relaxed.

The further case of the petitioner is that since in the MECS Scheme, there are no provisions for relaxation, while in the Semester Scheme, 2000, which was introduced later on through Annex.4, there are such provisions for relaxation, therefore, there is a discrimination between the two Schemes and from this point of view, the treatment given to the petitioner by the respondents is wholly arbitrary, illegal, discriminatory and violative of Article 14 of the Constitution of India. Thus, cancellation of enrolment of the petitioner through Annex.2 by relying on Rule 8.3 of the Rules of MECS Scheme is bad in law and deserves to be quashed and set aside. Hence, this writ petition with the prayers as stated above.

A reply to the writ petition was filed by the respondents and a preliminary objection has been taken by them in the manner that a similar and identical question was raised before the Division Bench of this Court in Vishnu Dutt Vyas v. State of Rajasthan and Ors., D.B.C. Special Appeal No. 298/2000, (decided on 17.1.2001 through Annex. R/I) and the case as put forward by the petitioner in the present writ petition was not accepted by the Division Bench of this Court and the order of the learned Single Judge was upheld and the special appeal was dismissed. Therefore, since this is the law of this Court, therefore, there is no force in this writ petition and the same deserves to be dismissed.

Apart from the above, it has been further submitted by the respondents that since in the Rules of MECS Scheme there was no provision for condonation of deficiency marks and special examination, therefore, the petitioner is not entitled to the relaxation sought for. Furthermore, when the petitioner was not able to earn requisite credits so as to enable her to claim Diploma Certificate, therefore, her enrolment was rightly cancelled as per provisions of Rule 8.3 of the Rules of MECS Scheme.

It has been further submitted by the respondents that the subject In which the petitioner has failed was subject code EL 411 and that subject was attempted by the petitioner thrice and on all the three occasions, she failed and therefore, on completion of six academic years from the date of enrolment, her enrolment was rightly cancelled through Annex.2 and a complete profile of the petitioner is marked as Annex.R/2.

It has been further submitted by the respondents that since the petitioner had taken admission under the MECS Scheme, the rules and regulations of the MECS Scheme were to be followed in her case and since in the MECS Scheme, there were no provisions for condonation of deficiency marks and special examination as are found in the Semester Scheme 2000, therefore, in these circumstances, the petitioner is not entitled to condonation of deficiency marks and special examination, furthermore, there is a passing standard for MECS Scheme as well as Semester Scheme, 2000 as mentioned in para 9 of the reply. Therefore, the case of the petitioner cannot be equated with the Semester Scheme 2000 as all the Schemes have some special features and they cannot be compared with each other. Hence,. no interference is called for and this writ petition deserves to be dismissed.

A rejoinder was also filed by the petitioners.

3. I have heard the learned counsel for the petitioner and the learned counsel for the respondents and gone through the entire materials available on record.

4. There is no dispute on the point that the petitioner got admission on the basis of merit in Diploma Programme (Electronics Engineering) under the MECS Scheme.

5. There is also no dispute on the point that the petitioner did not obtain minimum of 140 credits required for award of Diploma by way of making 12 attempts in maximum 6 academic years from the year of her enrolment.

6. There is also no dispute on the point that the petitioner secured maximum credits in Foundation Courses, Hard Core Courses and Soft Core Courses, but she could not earn minimum credit in Advanced Technology Courses or Unspecified and consequently, she could not also earn minimum 140 credits for the award of Diploma under the MECS Scheme.

7. There is also no dispute on the point that so far as MECS Scheme is concerned, in that Scheme, there are no provisions for relaxation or condonation of deficiency marks and special examination as are found in the semester Scheme 2000, which was introduced in the year 2000 through Annex.4.

8. The question for consideration is when in MECS Scheme there are no such provisions for relaxation or condonation of deficiency marks and special examination and no doubt that MECS Scheme was later on withdrawn and Semester Scheme, 2000 was introduced in the year 2000 through Annex.4, where provisions for relaxation or condonation of deficiency marks and special

examination have been made, whether in such circumstances, the petitioner, who got admission under the MECS Scheme, is entitled to claim relaxation or condonation of deficiency marks and special examination as provided in the Semester Scheme, 2000 or not.

9. In my considered opinion, the above question stands answered by the Division Bench judgment of this Court in the case of Vishnu Dutt Vyas (*supra*) and when the Division Bench of this Court in that case rejected all the contentions as raised by the petitioner in the present writ petition, therefore, in these circumstances, the reliefs sought for by the petitioner in this writ petition cannot be granted.

10. Apart from this, a person, who gets admission through a particular Scheme and if that Scheme comes to an end and a new Scheme is introduced, the Rules and Regulations provided in the old Scheme would be applicable to his case as he took admission in the old scheme. From this point of view also, the case of the petitioner that the provisions as are found in Semester Scheme, 2000 (Annex.4) be made applicable to her case, cannot be accepted.

11. Apart from the above, it may be stated here that educational authorities should be left without interference from the Courts and other outside agencies in administering their disciplinary over the examinees as long as they act in compliance with the rules of natural justice. The Courts in exercise of their writ jurisdiction are reluctant to interfere in the exercise of discretion of the educational authorities in the absence of strong reasons like contravention of law or statutory regulations governing the examinations.

12. The Courts have generally set certain limitations and self-imposed restrictions on the exercise of their discretionary power under Article 226 qua the decisions of academic bodies. The courts have consistently kept their hands off the high academic bodies unless flagrant violation of fair play based on bias or malafides is established. The High Court will be reluctant to interfere with the administrative and disciplinary matter unless it thinks that there has been a blatant deviation of any law.

13. Furthermore, the propriety or otherwise of a student's cancellation of examination or enrolment will justify scrutiny under Article 226 only when the materials placed before the Court show denial of basic human rights or violation of the principles of natural justice or glaring discrimination or bias or malafides.

14. In the present case, there is no violation of principles of natural justice nor it can be said that the respondents acted with malafides or bias against the petitioner in cancelling her enrolment. The action of the respondents in cancelling the enrolment of the petitioner cannot be said to be arbitrary, illegal and without jurisdiction.

15. For the reasons stated above, no interference is called in this writ petition and the same deserves to be dismissed.

16. The learned counsel for the petitioner has placed reliance on the Single

Bench judgment of this Court in Mahesh Chandra v. State of Rajasthan and Ors., S.B. Civil Writ Petition No. 997/1999. In my considered opinion, that judgment would not come to help to the petitioner because of the simple reason that in that case, the petitioner was found to have secured total 141 credits i.e. more than total 140 credits prescribed in Annex, 1, but the position in the present case is otherwise as the present petitioner had not secured minimum prescribed 140 credits.

17. The learned counsel for the petitioner has further submitted that in case the writ petition is going to be dismissed by this Court, the respondents may be directed to consider the case of the petitioner sympathetically. In this respect, no direction can be issued by this Court, but if the respondents want to consider the case of the petitioner sympathetically, this order would not come in their way.

18. Accordingly, this writ petition filed by the petitioner is dismissed. No order as to costs.