

(2015) 02 RAJ CK 0066
In the Rajasthan High Court
Case No : Civil Writ Petition No. 845/2015

Yadram Singh Gurjar

APPELLANT

Vs

Rajasthan University of Health Sciences

RESPONDENT

Date of Decision : 23-02-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 02 RAJ CK 0066

Hon'ble Judges : Alok Sharma, J.

Bench : Single Bench

Advocate : Bharat Saini, for the Appellant; Ashish Kumar Singh, Advocates for the Respondent

Judgement

Alok Sharma, J.—This petition has been filed with the multiple prayers that the respondents be directed to declare the petitioner's result of B.Sc. (Nursing) Part-III, he be permitted to fill up the OFF LINE examination form of B.Sc. (Nursing) Part-IV and also that he be allowed to write the said examination commencing today i.e. 24.2.2015.

2. Admissions and examinations to the four year B.Sc. Nursing Course in affiliated Colleges are governed by the University of Health Science Ordinance 299. Ordinance 299 V-7 provides that a student who has passed B.Sc. (Nursing) Part-II examination will be promoted to B.Sc. (Nursing) Part-III course and after completion of regular course of studies for one academic year, the student shall be eligible for B.Sc. (Nursing) Part-III examination. Alternatively a student who has failed in upto any two papers in B.Sc. (Nursing) Part-II examination, is promoted to the B.Sc. (Nursing) Part-III course and also made eligible for the examinations thereof but the result of such examination in B.Sc. (Nursing) Part-III is to be withheld and declared only when such student passes all the papers of B.Sc. (Nursing) Part-II examination. Ordinance 299-V-8 then provides that only a student who has passed the B.Sc. (Nursing) Part-III examination will be promoted to the B.Sc. (Nursing) Part-IV course and after completion of regular

course of studies for one academic year shall be eligible for B.Sc. (Nursing) Part-IV examination.

3. The scheme of the aforesaid Ordinances indicates that until a student passes all the papers of B.Sc. (Nursing) Part-II examination his result of B.Sc. (Nursing) Part-III examination can not be declared despite the fact that he was promoted, studied for one academic year and wrote B.Sc. (Nursing) Part-III examination. In the context of the aforesaid state of law, from the facts on record, it transpires that the petitioner passed the B.Sc. (Nursing) Part-I Examination in the year 2012 and was promoted to B.Sc. (Nursing) Part-II. Subsequent to one year of study in the aforesaid class the petitioner wrote the B.Sc. (Nursing) Part-II examination but in the result declared on 11.5.2013 he failed in one paper i.e. Community Health Nursing-I. The petitioner however in terms of the governing Ordinance was promoted and permitted to write B.Sc. (Nursing) Part-III examination. He also wrote the one back paper of B.Sc. (Nursing) Part-II to his account in the subject of Community Health Nursing in the remand examination but in the result declared thereof he failed again. Thus a back paper in B.Sc. (Nursing) Part-II remained. In the circumstances the petitioner's result for B.Sc. (Nursing) Part-III could not be declared in view of Ordinance 299-V-7. And inexorably the petitioner not having been declared passed in B.Sc. (Nursing) Part-III for reason detailed above under Ordinance 299-V-8, he could neither be promoted to B.Sc. (Nursing) Part-IV, nor write the B.Sc. (Nursing) Part-IV examination because of lack of statutorily prescribed eligibility. It however appears that the College where the petitioner is admitted, permitted the petitioner on payment of the annual fee to attend B.Sc. (Nursing) Part-IV and the petitioner claims to have studied the full one academic year in the said class. It is in these circumstances that the petitioner has approached this Court for declaration of his result of B.Sc. (Nursing) Part-III examination, also for permission to fill up the examination form of B.Sc. (Nursing) Part-IV Examination and write the said examination commencing today i.e. on 24.2.2015.

4. Mr. Ashish Kumar Singh counsel appearing for the respondent RUHS submits that under Ordinance 299 V-7 the petitioner with one back paper in the subject of Community Health (Nursing) in B.Sc. (Nursing) Part-II was promoted to B.Sc. (Nursing) Part-III to read in the said class for the whole academic year and was allowed to write the examination thereof. But in the circumstances he cannot seek declaration of his result for the aforesaid examination i.e. B.Sc. (Nursing) Part-III as he has a back paper in B.Sc. (Nursing) paper in B.Sc. (Nursing) Part-II. There is a statutory prohibition on this count. That the College permitted the petitioner to attend B.Sc. (Nursing) Part-IV classes and obtained the annual fee thereof, is a separate matter in respect of which the University as the affiliating body, if warranted, will take requisite steps against the College's illegality. Counsel hastens to add that the alleged contravention of the governing Ordinance by the purported Kalpatru College of B.Sc. Nursing, Udaipur where the petitioner is reading on the aforesaid count will not confer on the petitioner any right contrary to law. Nor can the petitioner plead estoppel against law- as the

Ordinances are. In these circumstances, counsel submitted, albeit the petitioner's result of B.Sc. (Nursing) Part-III appears to have been erroneously and unauthorizedly shown on the web-site of the respondent -RUHS, it has not been so officially declared, as it could not be under Ordinance 299-V-7. Counsel submits that therefore the petitioner cannot be entitled to avail the discretion of this Court as sought in his prayers in the petition under Article 226 of the Constitution of India to be admitted to and write the B.Sc. (Nursing) Part-IV examination, 2015.

5. Having heard counsel for the petitioner as also the respondent RUHS, I am afraid that the petitioner has no case. The petitioner cannot be entitled to nor does he has any right to the declaration of his result of B.Sc. (Nursing) Part-III examination under Ordinance 299 V-7 which mandates that for being entitled to declaration of result of B.Sc. (Nursing) Part-III the student concerned must clear all the papers of B.Sc. (Nursing) Part-II examination. This has not been done as the petitioner admittedly has not cleared the back paper in the subject of Community Health Science-I relating to B.Sc. (Nursing) Part-II. His result of B.Sc. (Nursing) Part-III cannot be declared. The petitioner could in the circumstances not be promoted to B.Sc. (Nursing) Part-IV. And inexorably the petitioner can claim no legal right to write the B.Sc. (Nursing) Part-IV examination.

6. Consequently, I find no force in the petition. Accordingly dismissed.