
(2001) 01 AP CK 0039

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 23962 and 24399 of 2000

Yarlagadda Radha

APPELLANT

Vs

Director P.G.R. Centre for Distant Education, Osmani
University, Hyderabad and others

RESPONDENT

Date of Decision : 17-01-2001

Acts Referred:

Citation : (2001) 2 ALD 48 : (2001) 2 ALT 5

Hon'ble Judges : Elipe Dharma Rao, J

Bench : Single Bench

Advocate : Mr. Nuthalapati Krishnamurthy, for the Appellant; Mr. K. Ramkanth Reddy, SC for OU, for the Respondent

Judgement

Elipe Dharma Rao, J.—These two writ petitions can be disposed of the this common judgment as the issue involved in both the writ petitions is one and the same.

2. The petitioners in both the writ petitions are students of Centre for Distant Education. Osmania University, Hyderabad. The petitioner in Writ Petition No.2362 of 2000 Smt. Yarlagadda Radha, after going through the eligibility test conducted by the first respondent got admission in M.A., Political Science with Telugu Medium with Roll No.94-96-9299 for the academic year 1995-96 and 1996-97 and she that passed M.A., Previous Examination conducted in December, 1999 and she paid Examination Fee to appear for final year examination and she could not appear for the reasons not mentioned in the affidavit. Now she intends to appear for M.A., Final Year Examination, which is going to be conducted in the month of December, 2000 and when she offered to pay examination fee, the respondents rejected on the ground that there is change in the mode of Examination System and New Rules called as Special Examination Rules were framed by virtue of which she is not entitled to appear for the M.A., Final Examination which are going to be conducted in 2000-2001 on the ground that she did not pass on subject in final year.

3. The same is the case with the writ petitioner in Writ Petition No.24399 of 2000. The first petitioner Yarlagadda Pullaiah got admission into two years M.A., Post-Graduate course in the year 1994-1995 and 1996-97 and passed M.A., Previous in three subjects in 1999 and that the second petitioner also got admission and he passed his first year M.A., Previous Examination in December, 1999 and that he paid examination fee for final year during 1997-98. It is stated that all the petitioners approached the respondents to pay the examination fee, the last date being 11-12-2000, and to appear for the final year M.A., examination, which is going to be conducted in December, 2000, but the respondents did not accept the fee offered by the petitioners on the ground that the course in which the petitioners have joined is stopped from the year 1997 onwards and presently the examinations are conducted under modified Rules which are called as Special Examination Rules and the eligibility to appear under the new pattern is that the candidate has to pass one subject in previous and atleast one subject in the final and since the petitioners did not pass one subject in the final year, therefore, they are not eligible to appear for the examination conducted in December, 2000-2001 under the Special Examination Rules. It is this action of the respondents, which is impugned in these writ petitions.

4. It is stated by the petitioners that the Osmania University under the Scheme of Distant Education started Post-Graduate courses in M.A., M.Com., without having any basic qualification, but the candidates shall have to undergo and qualify the eligibility test prescribed by the respondents to get admission into the courses. The respondents have not prescribed the duration to pass M.A., and M.Com., two years course in a particular period. As per the notification of the respondents, the petitioners have appeared for the eligibility test and after they were declared as eligible, got admission into M.A., Previous and accordingly they have appeared for the M.A., Previous examination and passed the said examination, except petitioner No.1 in Writ Petition No.24399 of 2000. According to them, though some of the petitioners have paid M.A., examination fee for final year, they have not appeared. Now when the respondents are conducting final year examination in December, 2000-2001, the petitioners intend to appear, but they were denied the opportunity to appear in the examination on the ground that the University has prepared Special Examination Rules. It is further stated that under Rule 2 of the said Rules, the candidates who have passed in atleast one subject in previous and one subject in Final Year are eligible to appear for the above said examination, and since the petitioners did not pass one subject in final year from 1995 to 1999, they are not eligible as per the said Rule.

5. The respondents have filed their counter-affidavit stating that the post-Graduate M.A., M.Com, courses were introduced in the year 1996 and were removed/withdrawn from the year 1997. As per the Rules, two years course should be completed in a schedule period of 2 + 2 i.e., 4 years. Accordingly, they have conducted four examinations during the period from 1996 to 1999 and though sufficient opportunity was given to the petitioners to appear and complete the two years M.A., course in 1997-98 and 1998-99, the petitioners

could not pass even a single paper of final year examination as required by the Special Examination Rules and they are not eligible to sit for the Final Year Examination conducted in 2000-2001. It is also stated that there is no detention under the system in the Distant Education scheme, but chances were given to appear for the Post-Graduate Final Examination in 1997-98 and 1998-99 and in spite of the above facility given to the petitioners, they could not pass even a single subject/paper of the Post-Graduate Final Year in terms of the Special Rules of Examination and, therefore, they are not eligible to sit for the examination.

6. It is contended on behalf of the petitioners that the Rule 2 is detrimental to the interest of the petitioners and at no point of time the petitioners were informed that they should complete the course within a period of four years and the Special Examination rules framed by the University are not applicable to them, as they were admitted under the Old Examination Rules and prayed to direct the respondents to receive the examination fee and allow the petitioners to appear for the final year examination and declare the results.

7. Time and again the Supreme Court and this Court have held that any direction to the University to allow the students to appear for the examination would be in clear transgression of the provisions of the University, Act and the Regulations of the University and conduct of the examination is within the dominion of the University. The Courts can not by its fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself, inasmuch as there is nothing more destructive of the Rule of Law than a direction by the Court to disobey the laws. Therefore, the University, in its own wisdom has taken steps to give two more chances the candidates who have not obtained the Post-Graduation Degree in M.A., and M.Com. under the scheme of Distant Education and the prescription of eligibility test is within the ambit and power of the University and, therefore, it can not be said that Special Examination Rules framed by the University are illegal and unconstitutional.

8. As seen from the prospectus issued by the Osmania University, Hyderabad for admission to M.A., M.Com. under Open University System, for 1995-96 it is contemplated that in view of the need of the people and the society, the University established the Institute of Correspondence Course, which was re-named as Centre for Distant Education in the year 1977 providing facilities for correspondence-cum-contact programme at the first degree level, that encouraged by the response and also the success of the programme, the University provided similar facilities for post-graduate course from the academic year 1987-88 which was similar to the courses offered for regular students in the colleges and University Departments and the present enrolment in Post-Graduate and Undergraduate courses put together is 20,000. Thus the scheme was undertaken by the university to facilitate the youth, those who have been knowledge, interest and zeal for prosecuting higher studies at the post-graduate level though they do not have the formal educational qualifications. Keeping in view the higher educational needs of such young men and women, who are not

having any basic qualifications, but are willing to prosecute higher studies, it has been decided to offer post-graduate programmes leading to M.A., M.Com, under Open University system from the academic year 1995-96 commencing from July, 1995 and the University has already launched B.A. B.Com courses under Open University System.

9. It prescribes a minimum age of 24 years as on 1st July, 1995 to appear for the eligibility test and who secure pass in the eligibility test will be admitted in M.A., M.Com. course. It further contemplates many other facilities. The course of study and syllabus for M.A., M.Com. under Open University system are prescribed by the University from time to time and the syllabus is provided alongwith the study material after admission. According to the above said scheme the University will conduct the examination at the end of first and second year and these examinations are normally held once in a year during April/May, that there are no supplementary examinations for Post-Graduate courses. The examination application forms for all the examinations have to be obtained from the centre with all relevant information. The rules and regulations including improvement of division issued from time to time are applicable to the students of the centre. However, subject to the University regulations there is no detention system in the center for distant education. As per the above said scheme, the university has conducted annual examination for the courses in which the petitioners have joined during 1995 to 1999. Now they have introduced new Examination Rules for M.A., M.Com. previous and final examinations which are called as Post-Graduate (OUS) Special Examination Rules.

10. Now let us see the relevant Rules which are applicable to the facts and circumstances of the case and by which the petitioners are governed. Rules 1 to 3 read as under:

1. The candidates who have not passed in any subject, in previous and final year are not eligible to appear for these examinations,
2. Only those candidates who have passed in atleast one subject in previous and one subject in final are eligible to appear for the above examinations.
3. No candidate is permitted to appear for the total examination in previous of Final Year.

11. Thus is evident that as per Rule 1, a candidate who has not passed any subject in Previous or Final year is not eligible to appear for the examination, but only those candidates who have passed at least one subject in previous and one subject in Final Year, as per Rule hereof, are eligible to appear for the above examinations. It is also evident that no candidate is permitted to appear in both the Previous or Final Year examination. The above Rules are framed by the University with an object to accommodate the candidates who got admitted in the Distant Education Course in the year 1995 and those who have passed one subject in previous and one subject in Final to appear for the examination. This restriction was imposed to allow the candidate who fulfills Rules 1 and 2 above,

with a view to restrict the appearance of the candidates instead of allowing all the candidates who are admitted in the Distant Education Scheme in 1995. The candidates like the petitioners, who have not passed any one subject each in previous and final years, though sufficient opportunity was given to the petitioners to complete the course, now all of a sudden, cannot contend that they were deprived of the opportunity to appear in the Examination under the P.G. Special Examination Rules. Ofcourse, some hardship might have been caused to the petitioners, but the aims and objects of framing the above Rules by the University cannot be said to be illegal. When the New Scheme is introduced, it is likely that some percentage of students will be put to some sort of inconvenience, but that itself cannot be a ground of deprive the large scale benefits to the students community at large.

12. As this system was introduced in 1995 and the same was withdrawn in 1997 and with a view to give a chance to the candidates who are admitted in 1995-96 and so on and since there are number of candidates who have not obtained post-graduation in M.A., M.Com. and with a view to give last chance, the University has taken a decision and framed Special Examination Rules giving an opportunity to the candidates who are not able to obtain Post-Graduation decree in the Distant Education, conducted in the annual examination in 1996-1999 and that no more examination will be conducted in the above said course in future. Accordingly, they have restricted the appearance of the candidates to the examination to those who have passed one subject in previous and one subject in Final Year. Accordingly, the notification was issued.

13. The conducting of examination with the prescribed syllabus is within the jurisdiction and power of the university and while introducing the above said course in 1995, they have made it clear that admission and appearance in the examination is subject to the Rule and Regulations made by the University from time to time and it is stipulated that Post-Graduation Course in M.A., M.Com., is for two year and they have to complete the above said course within a period of four year and, though opportunity was given to the petitioners, they have not completed the above said course within the stipulated period of four years and they have not been able to pass even one subject in the final year. The Special Examination Rules are framed and intended to conduct annual examination for 2000-2001 to those candidates who have passed atleast one subject in previous and one subject in final year. With a laudable object this scheme was initiated under the Centre for Distant Education, but when the petitioners have failed to pass any one subject in final year though chances we given to them and when the University has taken up the issue to conduct last two examinations for those candidates who have passed one subject in previous and one subject in final, year, to make use the scheme and pass Post-Graduation in M.A., M.Com., within two chances provided by the University, which is within the powers and ambit of the university to frame Rules and Regulations to conduct examination. Therefore, it cannot be said that the prescription of the condition that the candidates should pass one subject each in previous and final year to appear for the annual

examination, is arbitrary or illegal and detrimental to the interests of the petitioners. Out of the three petitioners, two petitioners have not made any attempt to sit for the Final Examination even though four opportunities were given to the petitioners by the University. Therefore, they have no right to challenge the correctness or legality of the Special Examination Rules framed by the University to facilitate those candidates to obtain Post-Graduate degree, those who have passed one subjects each in previous and final year. Therefore, I see no reason to interfere with the matter. The writ petitions accordingly fail and are dismissed. No costs.