
(1999) 08 RAJ CK 0034

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4528 of 1999

Yatiendra Yadav and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 27-08-1999

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 2000 Raj 74 : (2000) 2 RLW 1057 : (2000) 1 WLC 245

Hon'ble Judges : Arun Madan, J

Bench : Single Bench

Advocate : Narendra Yadav and Manish Mathur, for the Appellant;

Final Decision : Dismissed

Judgement

Arun Madan, J.—The case of the petitioners in short is that they are aspirant candidates for admission to 1st year BE/B.Sc. (Engg.)/ B.Tech/B.Arch Degree Courses in various Engineering Colleges (Government or Private) in the State of Rajasthan for the academic session 1999-2000.

2. The petitioners had all appeared in the Rajasthan Pre-Engineering (Entrance) Test-1999 (RPET) held on 1st, 2nd and 3rd June, 1999 respectively and qualified the same. The said examination was convened by the respondents for filling up the seats in the 1st Year of Bachelor of Engineering (B.E.) and other technical courses referred to above in various Engineering Colleges both Govt. and private as aforesaid, with the State of Rajasthan.

3. Pursuant to the declaration of the result of RPET Examination-1999, which was published in newspapers on 10-7-99 (Ann. 1), a combined merit-list for General and OBC candidates and separate merit-list for SC/ST, Girls (General) and, OBC, SC, ST and other reserved classes were prepared. As per the above list the position of the petitioners in order of merit is as under :

Merit No.

(1) Yatiendra Yadav (Pet. No. 1) 2144

(2) Man Singh (Pet. No. 2) 2124

(3) Deepak Mehra (Pet. No. 3) 2190

4. Thereafter, the petitioners and other candidates who were within the aforesaid merit-list were called for counselling by the respondents at Malviya Regional Engineering College (MREC), Jaipur on different dates and time as per the schedule of programme (Ann. 2) after issuing individual call-letters to the petitioners.

5. The grievance of the petitioners is that on the date when the counselling was fixed, the candidates who were in merit-position from serial No. 1701 to 1950 was scheduled on 8-8-99 since 8-00 a.m. and the counselling took place without any Interruption up to serial No. 1887 but suddenly the respondents stopped counselling and declared that counselling of the candidates from merit No. 1888 onwards would be taken on 23rd, 24th and 25th August, 1999 as per the programme to be advertised in the newspapers.

6. Pending counselling, as aforesaid, the respondents declared the IInd merit-list of general-class boys to fill up some "payment seats" in private colleges within the State. In the IInd merit list which was published on 11-8-99 (Ann. 7), the petitioners find their names in the order indicated above in para 3.

7. The further contention of the petitioners is that the counselling was organised by the respondents for 80 seats which included 54 "paid seats" for general candidates (girls), 35 seats (OBC) and 214 seats (for private Engineering Colleges) to be allotted strictly as per the combined merit of general candidates-boys and girls and OBC boys but as per the programme, the general candidates, whose names appeared in the second merit-list published on 11-8-99 (Ann. 7) were given priority over the candidates whose names had appeared in the 1st merit-list from serial No. 1888 onwards published on 10-7-99 (Ann. 1). These candidates from IInd merit-list were called separately and prior to that on 23-8-99 and 24-8-99 respectively at 8-00 a.m., which has been challenged by the petitioners by way of the present writ petition.

8. The petitioners have challenged the policy of the State Government to have made reservation for admission to the Technical and Educational institutions within the State in the ratio of 16%. 12% and 21% from amongst the SC/ST and OBC candidates respectively and also 25% to the women candidates i.e. 74% leaving only 36% for others.

9. Further grievance of the petitioners is that the policy of the respondents in stopping the counselling of the candidates from 1st merit-list Issued on 10-7-99 from serial No. 1888 onwards with intention to fill-up "paid seats" and giving priority in counselling to the said candidates over and above the candidates who appeared in merit-list from serial No. 1888 onwards from the 1st merit list by not extending the benefit of reservation in "payment seats" is also arbitrary and

irrational and hence not sustainable.

10. I have heard the learned counsel for the petitioners and also examined the relevant legal position on the subject with reference to the aforesaid contentions advanced by them at the Bar.

11. Prima facie, I am of the considered view that no benefit of reservation can be extended to the petitioners for admission to the RPET (Entrance) Examination held on 1st/2nd and 3rd June, 1999 since from the perusal of the merit list as well as the relevant documents on record, it is apparent that no arbitrariness or illegality of procedure has been done by the respondents in view of the fact that it was only after the combined entrance test, which was held during the period 1st to 3rd June, 1999 from amongst SC/ST/OBC's as well as general candidates both men and women that a combined merit list was prepared from amongst the aforesaid categories on the basis of their merit position and since the names of the petitioners were much below in order of merit in the 1st merit list at Sr. No. 2144, 2124 and 2190 respectively, while the last candidate to be admitted, his merit position was 1887 and all seats having been filled up for admission to the various Engineering Colleges of the State on the basis of the combined Entrance Test as referred to above, hence, it is not at all open to the petitioners to raise any grievance at this stage. The question of any arbitrariness or illegality of procedure in the preparation of merit list of respective candidates is altogether ruled out. I am of the view that Interference of the Courts in the matter of admissions to educational institutions offering professional courses should be minimal unless there are justifiable reasons to do so.

12. It is not the case of the petitioners that any candidate who is less qualified than the petitioners out of the merit list has been selected or given admission in the aforesaid course. I am further of the view that the ratio of the decision of the matter of Unnikrishnan v. State of Andhra Pradesh relied upon by the learned counsel for the petitioners reported in Unni Krishnan, J.P. and others Vs. State of Andhra Pradesh and others etc. etc., is not attracted to the instant case since the question which had arisen for consideration of the Apex Court was. In respect of running of private unaided/aided recognised/affiliated educational institutions which were conducting professional courses such as Medical/Engineering etc. and the question at issue was as to whether it is open to such institutions to charge capitation fee from the students and the extent to which they are permitted to charge the fee subject to the conditions and regulations laid down by the respective States.

13. Another question which had arisen for consideration in the above matter before the Apex Court was as to whether such institutions can charge a fee higher than the fee charged by Govt. Institutions and/or subject to a maximum limit fixed by the State with reference to the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984.

14. Answering the above queries, the Apex Court held that the private unaided,

recognised/affiliated Educational Institutions running professional courses are entitled to charge a fee higher than that charged by the Govt. Institutions for similar courses but such fee cannot exceed the maximum limit fixed by the State and the fee so charged would not amount to "capitation fee" since commercialisation of education is not permissible being opposed to public policy and Indian traditions. Hence, exploitation of help less students in the garb of capitation fee is not permissible but it is permissible to them to charge only the prescribed fee as per regulatory norms fixed by the State.

15. Applying the ratio of the above decision to the instant case, I am of the considered view that it is not the case of the petitioners that MREC (respondent No. 2) is imposing a higher fee on the petitioners than prescribed by the State for affording admission of the petitioners to 1st Year Course of BE/B.Sc. (Engineering/B.Tech./B.Arch. Degree course for the Session 1999-2000.

16. It is contended that the respondents have not extended the benefit of reservation to the petitioners for admission to private colleges even though they are prepared to pay the fees charge by them. It is not the case of the petitioners that on the basis of distinction and classification of students as "free" and "paid" with reference to the policy of reservation as prescribed for admissions to such courses has been violated since they have not cited any specific Institutions to show where the violation has been committed. Admittedly, the merit position of the petitioners is much below than the last candidate/candidates who were admitted to the Institutions imparting Technical Education (Govt./Private) in Rajasthan for the Session 1999-2000. It is also not the case of the petitioners that there has been any violation of admitting candidates more than the total available seats irrespective of their branches or subjects. Hence, it is not open to the petitioners to challenge the criteria adopted by the respondents for admission to the candidates belonging to SC/ST/OBC categories and no fault can be attributed to the respondents for issuing the 1st merit list dated 10-7-1999 in which both the OBC's as well as General candidates were admitted strictly on the basis of their merit, and no violation can be attributed to the respondents preparing the IInd merit list which was issued on 11-8-1999 since admittedly only those candidates who were higher in merit than the petitioners were given admission after the process of counselling done by the respondents as per the scheme and the rules envisaged thereunder.

17. My observations are also fortified from the judgment of the Apex Court in the matter of Dr Preeti Srivastava and Another Vs. State of M.P. and Others, wherein the Apex Court per Majority has observed that merit alone should be the guiding factor for the purpose of selection. Public good, like necessity of maintaining efficiency in administration of the educational Institutions imparting professional courses should not be sacrificed. It is only on the basis of excellence and ability to compete internationally in professional, technical and research fields including super-specialities wherein engineering or medicine, the admission should be afforded to the deserving candidates.

As a result of the above discussion, I find no merit in the writ petition, which is hereby dismissed summarily. No order as to costs.