

Court No. - 50

Case :- WRIT - C No. - 17412 of 2023

Petitioner :- Ajay Singh

Respondent :- University Of Allahabad And Another

Counsel for Petitioner :- Dhananjai Rai, Jitendra Kumar Singh

Counsel for Respondent :- Kunal Ravi Singh

Hon'ble Ashutosh Srivastava, J.

Heard Shri Dhananjai Rai, learned counsel for the petitioner and Shri Amit Saxena, learned Senior Counsel assisted by Shri Kunal Ravi Singh, learned counsel for the respondents.

By means of the instant writ petition, under Article 226 of the Constitution of India, the petitioner has sought quashing of the letter/order dated 27.4.2023 along with the Resolution-9 dated 3.6.2022 approved by the Academic Council of the respondent/University in its meeting dated 25.6.2022 and Notified on 29.7.2022.

By the impugned letter/order, the candidature of the petitioner for seeking admission in the Second Post Graduate Course pertaining to MA in Women Studies for the Academic Session 2022-23 has been rejected on the ground that the petitioner does not fulfill the criteria laid down by the University on 25.6.2022 notified on 29.7.2022.

It is the case of the petitioner that after obtaining LLB Degree from University of Allahabad with 55.8% marks and LLM from University of Allahabad with 76.76% marks pursuant to an Entrance Test Notification for Post Graduate Admission issued by the Allahabad University in the year 2022 for the academic session 2022-23 applied for admission in M.A. Women Studies Course offered by the University. The Entrance Test Notification issued by the University provided that the PGAT-2022 was classified into two categories namely, PGAT-1 meant for courses in conventional subjects as mentioned in List I, II, III and List IV whereas PGAT-II meant for courses in specialized/non conventional subjects as mentioned in List V. Since, the petitioner had applied for MA Women Studies which fell in List V, he was required to take the PGAT-II entrance examination. The Brochure (Information and Guidelines) issued by the University relating to the eligibility to appear in the eligibility test besides fulfilling the eligibility criteria provided under Clause 1.2 the petitioner was required to satisfy the additional condition provided under Clause 1.3.8. The additional condition provided that where a prospective candidate claims genuine interest in pursuing studies in a new post graduate programme and presents credible evidence in affirmation of such genuine interest, may apply for second post graduate examination subject to the condition that he must have passed first

PG exam by more than 60% marks and is granted permission by Vice Chancellor, University of Allahabad.

The petitioner being eligible took the entrance examination and was awarded total marks 141.1. The Committee formed by the University to shortlist the candidates took a decision to permit the petitioner to take admission along with other candidates. The petitioner had applied under OBC category and topped the category with 141.1 marks. The entrance test was held on 7.8.2022, however, no intimation was sent to the petitioner. The petitioner reliably learnt that candidates having lesser marks were allowed admission but the petitioner was denied the same. The petitioner represented to the University. The University in response to the representation of the petitioner vide letter dated 29.11.2022 informed the petitioner that his candidature was found ineligible by the Admission Committee in its meeting held on 3.6.2022 wherein under Agenda-9, it was resolved that candidates who have already passed post graduate in any subject may apply for admission in any other subject of the post graduate, provided the candidate has secured 9 grade points on a 10 point scale in the previous PG Course.

The petitioner is stated to have challenged the letter dated 29.11.2022 as also the Minutes of the Meeting before this Court by means of Writ Petition (C) No. 2031 of 2023 which writ petition was disposed of vide order dated 16.2.2023 directing the concerned Competent Authority of the University to complete the process of admission in the course concerned most expeditiously and preferably within a period of three weeks taking note of the instructions received by the Law Officer, University of Allahabad that the applications of various other students along with the petitioner were still pending for consideration and approval and no admission of double MA had been done till date. The order dated 16.12.2023 of this Court was not complied with within the time stipulated and a Contempt Petition No. 2563 of 2023 was filed. The Contempt Court was informed on 27.4.2023 that the admissions have been finalized. The petitioner vide letter dated 27.4.2023 received on 9.5.2023 was informed that admission into the Second Post Graduation Course requires the approval of the Vice Chancellor, University of Allahabad and that the Admission Committee in its meeting dated 3.6.2022 had resolved to alter the norms/criteria of admission in second PG course. The Academic Council of the University approved the norms/criteria on 25.6.2022 which was notified on 29.7.2022. The names of 07 candidates have been approved and candidates have been communicated by office of the Director Admissions-2023 on 3.3.2023. Since, the petitioner was not found eligible as per the criteria for second PG Admission, his name did not figure in the list.

Learned counsel for the petitioner submits that the respondent-University has manifestly erred in non suiting the petitioner and holding him not eligible for admission to the Second Post Graduate Course inasmuch as the rules of the game could not have been changed after the game had begun. He submits that the PG Entrance Test Notification was issued and the online registration commenced from 11.6.2022 and the closing of online registration and payment was 1.7.2022. The

petitioner stood eligible for registration as per Clause 1.3.8 of the eligibility conditions provided. The alleged resolution of the University which changed the eligibility criteria dated 25.6.2022 was approved by the Academic Council on 29.7.2022 subsequent to the date 11.6.2022 i.e. opening of the online registration and as such, could not be pressed in service against the petitioner. Learned counsel for the petitioner thus submits that no rules or the terms of eligibility could be added or changed after the notification has been issued and as such, the action of the University in so far as treating the petitioner as ineligible is not liable to be sustained and the petitioner is entitled for the relief claimed.

Per contra, the case of the respondent/University as set up in the counter affidavit filed on behalf of respondent Nos. 1 & 2 is that before the date of registration as stated in the Brochure i.e. 11.6.2022, the Admission Committee held a meeting on 3.6.2022. In the said Meeting, the Agenda-9 was with regard to admission in second PG course and the resolution was passed to the effect that a candidate who has already passed the post graduate in any subject can only apply for another post graduate subject provided the marks secured in the previous post graduate are 9 grade point out of a 10 point scale in the previous PG course. The Academic Council thereafter, in its meeting dated 25.6.2022 vide Resolution No. 23/43 approved the minutes of the meeting held on 3.6.2022. The approval was communicated to the Director, Admissions vide letter dated 29.7.2022. The condition for admission to second PG course stood changed vide decision of the Academic Council dated 25.6.2022 and would bind all candidates. In Rule 2.10 of the Admission Rules and the procedure of the Brochure it was clearly stated that the University reserved the right to refuse admission to any candidate without specifying any reason and to make changes in the rules and procedure of examination. Since the changes in the admission criteria were done before the registration of the examination closed and before the written examination took place i.e. 7.8.2022, no fault in the action of the University can be attributed. Admittedly, the petitioner did not have 9 grade point out a 10 point scale in the previous PG course and as such, the candidature of the petitioner was not approved by the Vice Chancellor as per the admission policy. The rules of the game were not changed after the game had started rather the rules were changed even before the game begun. It is, thus, urged that there is no merit in the writ petition and it is liable to be dismissed, as such.

A rejoinder affidavit has been filed by the petitioner reiterating the stand taken in the writ petition and further submitting that the Rules so amended by the University came into effect from 29.7.2022 and prior to the same the entrance examination process had already commenced and candidates had already applied and the candidature of the petitioner and other similarly placed candidates could not have been rejected based on the changed criteria.

I have heard learned counsel for the parties and have perused the record.

In the opinion of the Court, the core issue to be adjudicated by this Court is as to

when the admission process can be stated to have commenced and concluded and as to whether the change in the eligibility criteria brought about by the University vide its Resolution No. 23/43 dated 25.6.2022 notified on 29.7.2022 could be applied to non suit the petitioner.

Learned counsel for the petitioner vehemently submits that the PGAT-22 for session 2022-23 was to be conducted after inviting the applications for admission in different PG courses including the course of MA Women Studies applied for by the petitioner. The date of opening of online applications for the said purpose was announced as 11th June, 2022. The closing of online registration and payment was fixed as 1st July, 2022. The opening of downloading of admit cards online and dates of the entrance tests was to be announced later. The eligibility prescribed was as per Clause 1.3.8 of the Brochure (Information and Guidelines) discussed herein before. The entrance test was held on 7.8.2022. The petitioner stood eligible for admission to the course applied as per Clause 1.3.8, however, despite having higher merit than other candidates he was held to be ineligible in terms of the Rule which the University changed vide Resolution dated 25.6.2022 notified on 29.7.2022 after the date of closure of Registration. It is contended that the rules of the game could not be changed once the game had begun. Reliance is placed upon the decisions of the Apex Court reported in **2008 (3) SCC 512 (K. Manjushree etc. versus State of Andhra Pradesh & others)** and **AIR 2023 (SC) 52 (The State of U.P. versus Karunesh Kumar & others)**.

In the case of **K. Manjushree** (supra), the Apex Court in Para 28 and 29 of its judgment has observed as under:-

"28. In Maharashtra State Road Transport Corporation v. Rajendra Bhimrao Mandve 2001 (10) SCC 51, this Court observed that the rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced. In this case the position is much more serious. Here, not only the rules of the game were changed, but they were changed after the game has been played and the results of the game were being awaited. That is unacceptable and impermissible.

29. The resolution dated 30.11.2004 merely adopted the procedure prescribed earlier. The previous procedure was not to have any minimum marks for interview. Therefore, extending the minimum marks prescribed for written examination, to interviews, in the selection process is impermissible. We may clarify that prescription of minimum marks for any interview is not illegal. We have no doubt that the authority making rules regulating the selection, can prescribe by rules, the minimum marks both for written examination and interviews, or prescribe minimum marks for written examination but not for interview, or may not prescribe any minimum marks for either written examination or interview. Where the rules do not prescribe any procedure, the Selection Committee may also prescribe the minimum marks, as stated above. But if the Selection Committee want to prescribe minimum marks for interview, it should do so before the commencement of selection process. If the selection committee prescribed minimum marks only for the written examination, before the commencement of selection process, it cannot either during the selection process or after the selection process, add an additional requirement that the

candidates should also secure minimum marks in the interview. What we have found to be illegal, is changing the criteria after completion of the selection process, when the entire selection proceeded on the basis that there will be no minimum marks for the interview."

In the subsequent decision of the Apex Court in case ***The State of Uttar Pradesh versus Karunesh Kumar and others*** reported in ***AIR 2023 (SC) 52*** relied upon by learned counsel for the petitioner, the Apex Court while clarifying that the principle governing changing the rules of the game would not have any application when the change is with respect to selection process but not the qualification or eligibility in Para 32 of its judgment observed as under:-

*"32. The respondents have also placed reliance on the decision of this Court in the case of **K. Manjusree** (supra). However, in our considered view, the facts of the aforesaid decision are quite different from the present case. A change was introduced for the first time after the entire process was over, based on the decision made by the Full Court qua the cut off. Secondly, it is not as if the private respondents were non-suited from participating in the recruitment process. The principle governing changing the rules of game would not have any application when the change is with respect to selection process but not the qualification or eligibility. In other words, after the advertisement is made followed by an application by a candidate with further progress, a rule cannot be brought in, disqualifying him to participate in the selection process. It is only in such cases, the principle aforesaid will have an application or else it will hamper the power of the employer to recruit a person suitable for a job."*

Shri Amit Saxena, learned Senior Counsel appearing for the respondent/University submits that the issue of the University changing the Rules of the game as canvassed by the learned counsel for the petitioner does not arise in the case at hand inasmuch as law is settled that applicable rules on the last date of making an application would govern the recruitment process itself. No illegality can be found in the action of the University in rejecting the candidature of the petitioner and holding him ineligible. The rules of eligibility were changed before fixing the date of opening of the online registration i.e. on 3.6.2022. Thereafter, the Academic Council in its meeting dated 25.6.2022 resolved and approved the minutes of the meeting held on 3.6.2022. Since, the Academic Council of the University had on 25.6.2022 resolved to change the condition for admission to second PG course which change was permissible as per Rule 2.10 of the Admission Rules and Procedure of the Brochure prior to the last date of the making online registration i.e. 1.7.2022, the change was binding upon every candidate including the petitioner. The rejection of the candidature was thus justified and no irregularity or illegality can be attributed to such action. Reliance has been placed upon the decision of a co-ordinate Bench of this Court in ***Writ-A No. 4826 of 2020 (Dr. Hem Prakash and 4 others versus State of U.P. and another)*** passed on 21.9.2020. It is also contended that the said decision was upheld in Special Appeal No. 877 of 2020 vide judgment and order dated 8.10.2022. Reliance is also placed upon a decision of the High Court of Uttarakhand at Nainital rendered in a bunch of writ petitions leading amongst them, being ***Writ Petition No. 2703 of 2012 (Devesh Uprete***

versus State of Uttarakhand & another) wherein the Court observed as under:-

"There is no doubt about the settled position of law that rule of the game cannot be allowed to be changed after the selection process has commenced.

Moreover, Hon'ble Apex Court in the case **University Grants Commission and another Vs. Neha Anil Bobde (Gadekar)**, in **Civil Appeal No. 8355 of 2013, decided on 19th September, 2013** had occasion to deal with this identical controversy. Hon'ble Apex Court in the case of **University Grants Commission (Supra)** in paragraph 29 has held as under :-

*"29. We are of the view that, in academic matters, unless there is a clear violation of statutory provisions, the Regulations or the Notification issued, the Courts shall keep their hands off since those issues fall within the domain of the experts. This Court in **University of Mysore vs. C.D. Govinda Rao**, AIR 1965 SC 491, **Tariq Islam vs. Aligarh Muslim University** (2001) 8 SCC 546 and **Rajbir Singh Dalal vs. Chaudhary Devi Lal University** (2008) 9 SCC 284, has taken the view that the Court shall not generally sit in appeal over the opinion expressed by expert academic bodies and normally it is wise and safe for the Courts to leave the decision of academic experts who are more familiar with the problem they face, than the Courts generally are. UGC as an expert body has been entrusted with the duty to take steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in the University. For attaining the said standards, it is open to the UGC to lay down any "qualifying criteria", which has a rational nexus to the object to be achieved, that is for maintenance of standards of teaching, examination and research. Candidates declared eligible for lectureship may be considered for appointment as Assistant Professors in Universities and colleges and the standard of such a teaching faculty has a direct nexus with the maintenance of standards of education to be imparted to the students of the universities and colleges. UGC has only implemented the opinion of the Experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Article 14 of the Constitution of India."*

*In view of the judgment of the Apex Court in the case of **University Grants Commission (Supra)** as well as in view of the discussion made hereinbefore, the corrigendum was issued much prior to the submission of the last date of the application form and fixing minimum cut off marks seems to be justified to maintain the high standard of Lecturer."*

Having heard the learned counsel for the parties and having gone through the records as also the various decisions cited at the Bar, I find that both the counsels are on the same plain regarding the legal position that rules of the game cannot be allowed to be changed after the selection process has commenced.

In the opinion of the Court, the selection process can be said to be commenced with the closing of online registration and payment fixed by the University i.e. 1.7.2022 which is the date whereafter the application forms received shall be processed. Admittedly, the change in the eligibility criteria was made by the Resolution No. 23/43 dated 25.6.2022 which fell within the last date of accepting the registration

form and payments. However, the resolution of the Academic Council of the University was notified only on 29.7.2022 which was on a date anterior to the last date of acceptance of the registration forms. The last date i.e. 1st July, 2022 was never extended by the University. In such view of the matter, the University proceeded to change the rules of the eligibility after the selection process had already commenced. The amended criteria could not be applied to the case of the petitioner to non suit him. The impugned action of the University being contrary to law is liable to be set aside and is accordingly, set aside.

A question now arises as to what relief can be given to the petitioner once this Court has found that the University illegally declared the petitioner to be ineligible for admission to the course applied for. The petitioner had applied for admission to the Session 2022-23. The session has already commenced rather it is on the verge of coming to an end. No fruitful purpose would be achieved by directing the University to consider the candidature of the petitioner for admission to the course MA Women Studies now. However, the Court finds that the petitioner has suffered immensely and he has been dragged into unnecessary litigation and was compelled to approach this Court on three occasions.

In the opinion of the Court, the petitioner is liable to be compensated with costs quantified at Rs.50,000/- which shall be payable to the petitioner by the respondent/University within a fortnight. The writ petition is consigned to records with the aforesaid directions.

Order Date :- 10.1.2024
Ravi Prakash

(Ashutosh Srivastava, J.)