

RAJASTHAN HIGH COURT

Gajendra Singh

Vs.

State of Rajasthan

Civil W.P. No.4809 of 2000

(B.S. Chauhan, J.)

16.02.2001

ORDER

B.S. Chauhan, J.

1. The Instant writ petition has been filed for issuing direction to the respondents for giving admission in B. Ed. Course to the petitioners by determining their merit as per Faculty -wise criteria.

2. The facts and circumstances giving rise to this case are that there are about 6000 seats in B. Ed. Course in the State of Rajasthan, out of which 600 seats are reserved for Shiksha Shastri, which is equivalent to B. Ed. Respondent No.2 conducted the Pre-Teachers Education Test, 2000 (for short, "P.T.E.T.") on 8-10-2000. The result was declared on 12-12-2000 but as there had been some error in publishing the result by the local newspapers the amended result was declared on 17-12-2000. Candidates had been offered admission but petitioner has not been admitted to the B. Ed. Course. Hence this petition. For deciding the case, facts in respect of petitioner No.1 are taken into consideration.

3. Mr. Pushpendra Singh, learned counsel for the petitioner, has submitted that persons securing lesser marks in P.T.E.T. had been offered admission ignoring the claim of the petitioner, hence he has been subjected to hostile discrimination. The candidate, who secured 460 marks had been given admission while petitioner had secured 462 marks (sic) and such a course is impermissible. Moreso, the Guidelines/ Rules for the purpose (sic) provide to prepare the merit list faculty-wise and if the merit is determined according to faculty-wise criteria, he deserves to be admitted in the course.

4. The respondents have contested the case submitting that the National Council of Teachers Education (hereinafter called NCTE) established under the National Council of Teachers Education Act, 1993, has Issued certain guidelines fixing the ratio of 1 : 24, i.e., one teacher for 24 students, therefore, the admission has to be offered considering availability of teachers in a particular subject also. Moreso, every candidate had to give option of three subjects for B. Ed. Course, in which he has done his Graduation and two courses would be offered to him taking into account the availability of the institution and the teacher, of course, strictly in accordance with merit, no candidate securing the lesser merit than the petitioner in the same discipline has been offered admission, the person who secured 460 marks and has been admitted belonged to Mathematics group while petitioner was in Biology Group. Therefore, there is no discrimination in offering admissions.

5. I have considered the submissions made by the learned counsel for the parties.

6. As per the Scheme of Admission, there has to be a combined test for all the eligible candidates throughout the State for the aforesaid seats. 20% of the total number of seats had to be filled up strictly in accordance with merit, i.e. offering admission to the students who-are in the top of combined merit list irrespective of their district-wise merit and group-discipline etc. and remaining 80% seats had to be filled up considering the availability of the course and teachers in a particular subject. As per the Rules/Scheme, admissions were required to be made taking into consideration also the merit, group of the candidate, reservation, availability of the seats, subjects etc. and also the choice of the students regarding the educational institution. Thus, while giving admission, 20% of the students whose names appeared in the top of the merit list, had been offered admissions as per their choice. There has been no restriction either of their caste or district. Remaining 80% candidates had been offered admission taking into consideration their subject, availability of teachers and institutions in a particular district.

7. Whether merit list can be prepared district-wise or not, is not under challenge and none of the petitioners has raised this issue. In a particular case, if 20% students in the top of the merit list had been offered admission strictly in accordance with their merit and choice, in certain cases, all the seats in a particular discipline, i.e. Biology, had been filled by the students coming in the top of 20% of the total seats. Therefore, in a particular district, a student having Biology discipline has not been offered admission.

For non-availability of seat in Biology and somewhere, seats could not be offered because of non-availability of teachers in that subject. Thus, a student may be in the same faculty, i.e. Science, but in a different discipline, i.e. Mathematics, though secured less marks, has been offered the admission. In such a fact-situation, I am at complete loss to understand as to how it can be held to be a case of discrimination, for the simple reason that if seats are available only in Mathematics discipline, petitioner, who has Graduated in Biology Group, can certainly be not offered admission in Mathematics group. Therefore, I find no tangible ground to interfere with the admissions made by the respondents.

8. A Constitution Bench of the Supreme Court in *University of Mysore v. C.D. Govindarao*.¹ held that in academic matters where the decision under challenge has been taken by the Committee of Experts, "normally the Court should be slow to interfere with the opinion expressed by the experts" unless there are allegations of *mala fide* against any of the members of the Expert Committee. The Court further observed as under:-

"It would normally be wise and safe for the Courts to leave the decision of the academic matters to experts who are more familiar with the problem they face than the Court."

9. A similar view has been taken in *State of Bihar v. Dr. A.K. Mukherjee*,² *Dr. M.C. Gupta v. Dr. Arun Kumar Gupta*,³ *Dr. Umakant v. Dr. BheekaLal Jain*,⁴ *The Chancellor v. Dr. Bijaynandan Kar*,⁵ *Central Arecanut and Cocoa Marketing and Processing Co-operative Ltd. v. State of Karnataka*,⁶ *Sheetal v. State of Rajasthan*,⁷ (*Jarnel Singh v. State of Rajasthan*)⁸ *Laxman v. State of Rajasthan*,⁹ *Toda Ram v. State of Rajasthan*,¹⁰ and *Chairman. J. and K. State Board of Education v. Feyaz Ahmed Malik*,¹¹

10. A similar view has been reiterated in *Rajendra Prasad Mathur v. Karnataka University*,¹² wherein the Hon'ble Supreme Court held that in the matter of academic courses, the court should not disturb the decision taken by the educational institution unless there are compelling circumstances and sufficient material warranting the interference.

11. The educational institutions have the role not only of imparting the education but

also to achieve excellence in specialties and one of the main aim of any educational institution should be to maintain and upgrade the standard of education. Vide, *State of U.P. v. Dr. Anupam m Gupta*,¹³ and *Ombir Singh v. State of U.P.*,¹⁴

12. In *Bihar School Examinations Board v. Subhas Chandra Sinha*,¹⁵ the Hon'ble Apex Court held that the educational institutions/Universities are responsible to maintain the standard of education and to conduct the examinations, Maintenance of academic standards require the appreciation of each problem by the educational institutions/Universities and while sitting in judicial inquiry, the decision taken by the educational institutions etc. must be respected.

13. Upgrading the standard of education has become an issue of paramount importance now-a-days and it should not be compromised for any reason. Therefore, even if it is assumed for the sake of argument that the ratio fixed by the N.C.T.E. to have one teacher for 24 students is not mandatory, it does not require to be disturbed by the Court in equity Jurisdiction.

14. In *Madhu Kishwar v. State of Bihar*,¹⁶ the Apex Court had held that every discrimination does not necessarily fall within the ambit of Article 14 of the Constitution and becomes liable to be struck down, rather every case has to be examined in the peculiar facts and circumstances involved therein, otherwise it would create a chaotic situation.

15. In *State of Karnataka v. B. Suverna Malini*¹⁷ the Hon'ble Supreme Court reiterated the same view observing as under (at pp.610 and 611 of AIR) :-

"The concept of equality before law does not involve the idea of absolute equality among human beings which is a physical impossibility. All that Article 14 guarantees is a similarity of treatment, contra-distinct from identical treatment. Equality before law means that amongst equals, the law should be equal and should be equally administered and that the like should be treated alike. Equality before law does not mean that things which are different shall be treated as though they are the same. It, of course, means denial of any special privilege by reason of birth, creed or the like. The Legislature as well as the Executive Government, while dealing with the diversified problems arising out of an infinite variety of human relations must of necessity, have power of making

special laws to achieve any particular object and to achieve that object it must have the power of selection or classification of persons and things upon which such laws are to operate. Mere differentiation or inequality of treatment does not, *per se*, amount to discrimination."

16. In the wake of the above, I am of the considered opinion that the petitioner has not been discriminated, rather the fact-situation compelled the respondents to execute its scheme for the best utilization of its institutions, teachers available in a particular subject and without disturbing the merit in that particular subject /discipline. In absence of allegations of *mala fide* or irregularity, the case does not present special features warranting interference by the Writ Court. If petitioner finds that there has been discrimination in the same discipline, he always has a right to make a representation to the Authority and in that case, the Authority is under obligation to consider and remove the anomaly. The respondents have taken this stand in their reply and in case petitioner comes to know any such irregularity/ mistake, he may prefer a representation before the Competent Authority and if he does so, it will be considered strictly in accordance with law.

17. With these observations, the petition stands dismissed.

Petition dismissed.

Cases Referred.

1. AIR 1965 SC 491
2. AIR 1975 SC 192
3. (1979) 2 SCC 339: (1979 Lab 1C 296)
4. AIR 1991 SC 2272
5. AIR 1994 SC 579
6. (1997) 8 SCC 31: (AIR 1998 SC 2399)
7. AIR 1997 Raj 1 (sic)
8. (1992) 1 Raj LR 264: (AIR 1992 Rajasthan 173)
9. 1996 RLW 1576 (sic)
10. 1998 Raj LW 1603
11. (2000) 3 SCC 59: (AIR 2000 SC 1039)
12. AIR 1986 SC 1448

13. AIR 1992 SC 939
14. AIR 1993 SC 975
15. AIR 1970 SC 1269
16. AIR 1996 SC 1864
17. (2001) 1 JT (SC) 317: (AIR 2001 SC 606)