

# RAJASTHAN HIGH COURT

Ashok Gupta

Vs.

University of Rajasthan

C.W.P. No. 4963 of 2000

(Shiv Kumar Sharma, J.)

11.02.2002

## ORDER

**Shiv Kumar Sharma, J.**

1. The prayer of the petitioner in the instant writ petition is that the respondent be directed to take a suitable decision permitting the petitioner to submit his Ph.D. Thesis in view of the recommendations of the committee constituted pursuant to the meeting of the academic council dated 22-4-2000 and the subject expert be nominated for evaluating the Ph.D. Thesis and for viva voce and the degree of Ph.D. be awarded to the petitioner.

2. The petitioner passed his B.A. examination with Second Division. Thereafter he appeared in M.A. English Examination and passed it with Third Division. The petitioner applied for Ph.D. in the subject of "A Study of the Managerial Aspects of the College Education in Rajasthan". Vide letter dated Nov. 18, 1995 the respondent University constituted a committee for examining the eligibility of the petitioner for Ph.D. Registration. Vide letter dated Nov. 25, 1995 the petitioner was permitted for registration in Ph.D. subject to approval by Research Board. On January 26, 1996 formal order permission was issued by the Assistant Registrar (Research) to Head of the Department of E.A.F.M. regarding petitioner's registration for Ph.D. under the supervision of Dr. J.K. Tandon, Vide letter dated Feb. 5, 1996 the petitioner intimated April 8, 1995 as the date of commencement of Research Work to the respondent University. The respondent University issued order on March 18, 1996 accepting April 8, 1995 as the date of commencement of the research work. The petitioner made representation on May 19, 1997 to the respondent University seeking permission to submit Thesis work for evaluation and approval by the University. Vide letter dated

Nov. 12, 1997 the respondent University refused permission on the ground that the petitioner was not having required percentage for Ph.D. registration. The petitioner thereafter made a detailed representation and on Nov. 10, 1998 the respondent University informed the petitioner that the petitioner's case was referred back to the Research Board. In the meeting held on March 30, 2000, the Research Board considered the petitioner's application and resolved that the petitioner be permitted to submit his thesis. The committee appointed by the Academic Council examined the resolution of the Research Board . The Committee unanimously endorsed the decision of the Research Board dated March 30, 2000 permitting the petitioner to submit Research Thesis for award of Degree of Ph.D. when no suitable action was taken by the respondent University the petitioner served a notice of demand of justice through his counsel on August 29, 2000 and filed the instant writ petition.

3. The respondent's submitted written statement with the following averments.

(a) The petitioner is ineligible for Ph.D. work in the light of the Ordinance 124 of the University of Rajasthan.

(b) Admittedly the petitioner possessed B.A. degree with Second Division and M.A. in English with Third Division. In view of Ordinance 124 the judgment should possess master degree with at least 55% marks or second division at the U.G examination as well second division at the post graduation examination. Thus, the ingredients of Ordinance 124 are not fulfilled by the petitioner.

(c) The case of the petitioner was considered by the various relevant bodies of the University of Rajasthan like Research Board, Academic Council and Syndicate, but the petitioner was not found fit for grant of approval under Ordinance 124.

d) The Syndicate in the meeting held on 6-5-2001 decided not to take a view in the matter as the provisional registration was granted by the Vice Chancellor subject to approval of Research Board.

e) The petitioner applied for Ph.D. registration in commerce having passed P.G. in English subject with third division and the petitioner was permitted to Ph.D. in the commerce without undergoing and taking any test contrary to Ordinance 124 (IV) of the University of Rajasthan.

(f) The petitioner was permitted provisionally to be Ph.D. research work and the Syndicate in the meeting dated May 6, 2001 decided not to take a view in the matter.

4. I have heard the rival submissions and scanned the material on record.

5. It will be relevant to incorporate Ordinance 124 of the University Ordinance which reads thus :

"O. 124 : A candidate for admission to the degree of Ph.D. in the Faculties of Articles Fine Arts, Music and Dramatics, Social Sciences, Science, Commerce, Education, Law, Engineering and Technology Medicine and Pharmaceutics, Ayurveda and the degree of Vidya Varidhi in the Faculty of Sanskrit Studies must have obtained the Master's degree with at least 55% marks at the Post Graduate examination or second division at the post graduate examination with at least second division at the degree examination of the University or of another University recognized as equivalent to thereto, in the subject or any allied subject in which he/she wishes to persue research provided that the masters degree should have been obtained after taking the bachelor's degree with full prescribed course for the degree."

6. On a deep scrutiny of material on record I find that the Committee, constituted by the Academic Council, met on 7th June, 2000 and 14th June, 2000 and gave its report Annexure 25. In the said report it was stated that the petitioner submitted his application for registration for Ph.D. Degree in Faculty of Commerce under the supervision of Dr.J.K. Tandon belonging to the Department of E.A.F.M. The petitioner also submitted an application requesting the change of Faculty as he had secured Master's degree in English in the Faculty of Articles He supported his request for relaxation on the basis of his experience in the filed of teaching and educational administration. The request of the petitioner for the change of Faculty and relaxation was referred by the University to a committee consisting of the Dean of Faculty of Commerce, Head Department of E.A.F.M. and Dr. N.P. Agrawala, Associate Professor, Department of A.B.S.T. The Committee recommended that the request of the petitioner for change of Faculty and relaxation of qualification be acceded to and he be permitted to be registered for the degree of Ph.D. in the Faculty of Commerce. The Department Research Committee of E.A.F.M. also approved the synopsis and outline of the subject etc. submitted by the petitioner for the registration for Ph.D. Degree. The Vice Chancellor accepted the recommendations of the Committee constituted under the convenorship of the Dean, Faculty of Commerce for change of Faculty. The petitioner was subsequent registered provisionally" for the degree of Ph.D. vide University letter dated Nov. 25, 1995 in subject to the approval of Research Board. The petitioner was asked by the university to communicate the date of commencement of his research work. As requested by the petitioner the date of

commencement of his research work was accepted by the University as April 8, 1995. On the basis of his provisional registration the petitioner continued his research work. The petitioner subsequently communicated to the University the completion of his Ph.D. Thesis through his supervisor and Head of Department of E.A.F.M. The University accordingly appointed examiners to evaluate his thesis. The case of the petitioner was placed before the Research Board on Nov. 12, 1997 i.e. after a period of two and a half years from the date of commencement of his research work. The Research Board, however, did not recommend the approval of his registration. The Academic Council vide its resolution dated June 22, 1998 referred back this recommendation to Research board for reconsideration. On consideration of the issue, the Research Board vide its resolution No. 3 dated March 30, 2000 granted relaxation to the petitioner. The Board also resolved that the petitioner be permitted to submit his thesis. The Committee in the penultimate para of the report observed as under:

"The committee took note of the fact that Sri Gupta was registered for the Degree of Ph.D. subject to the approval by the Research Board. Since the Research has already approved his registration and has resolved that he may be permitted to submit his thesis, the committee unanimously endorses the decision of the Research Board dated 30-3-2000."

The report bears the signatures of Prof. S.N. Dube (Convenor) , Prof. H.S. Sharma, Dr. Ashok Kumar, Dr. Ashok Sharma and Dr. Madhukar Shyam Chaturvedi (members).

7. The petitioner instituted the writ petition on Oct. 10, 2000 and till the filing of the writ petition the Syndicate did not take any decision about research work of the petitioner. But from the written statement submitted by the respondent University it appears that the Syndicate in the meeting held on May 6, 2001 decided not to take a view in the matter. It is no doubt true that Ordinance 124 bars the registration of third divisioner post graduates to the admission to the decree of Ph.D. but the Research Board and the Committee constituted by the academic council approved the registration and permitted the petitioner to submit his thesis. The petitioner did not conceal any fact from the respondent University and he intimated the respondent that he passed M.A. English Examination with III Division. Despite this information the respondent University ignored the provisions of Ordinance 124 and thus acquiesced the infirmities of the petitioner's Ph.D. registration. Therefore, the University is now estopped from pleading that the petitioner was not having required percentage of marks for Ph.D. registration. The respondent was served on Dec. 7, 2000 and during the pendency of the writ petition i.e. on May 6, 2001 the Syndicate took the decision. I

am of the considered view that once the petitioner was allowed to complete the research work, he cannot subsequently be restrained from submitting his Ph.D. thesis. The decision taken by the Syndicate in its meeting dated May 6, 2001 therefore in the absence of the petitioner, without providing him opportunity of the petitioner, without providing him opportunity of hearing is arbitrary, against the principles of natural justice and thus violative of Article 14 of the Constitution of India.

8. For the reasons mentioned above I allow the writ petition and quash the decision taken by the Syndicate dated May 6, 2001 and direct the respondent University to entertain the Ph.D. thesis of the petitioner. The thesis so submitted by the petitioner shall be processed in accordance with law and the result shall be declared within one month from the date of submitting the Ph.D. thesis by the petitioner. The parties in the circumstances shall bear their own costs.

Petition allowed.