

RAJASTHAN HIGH COURT

Mohan Lal Sukhadiya University

Vs.

R.K. Makhija

Civil S.A. No. 117 of 1999

(Dinesh Maheshwari, J.)

14.02.2006

JUDGEMENT

Dinesh Maheshwari, J.

1. In Civil Original Suit No. 337/1997 filed by the respondent No.1 Rajesh Kumar Makhija for declaration and perpetual injunction against the appellant- Mohan Lal Sukhadiya University, Udaipur and the Principal, Vidya Bhawan Govind Ram Seksaria Teachers Education College, Udaipur, the Civil Judge (Junior Division), Udaipur City (North), Udaipur while passing the decree against the defendants on 20-1-1998, declared the action of the appellant- University for cancellation of the admission and examination of the plaintiff, as illegal and void; and directed them to declare the result of the M. Ed. Examination taken by the plaintiff. The appeal taken by the University, being Civil Appeal No. 17/1998, was dismissed by the Additional District Judge No.2, Udaipur on 1-2-1999. Aggrieved, the defendant No.1 appellant-Mohan Lal Sukhadiya University has preferred this Second Appeal.

2. While admitting the instant Second Appeal on 7-5-1999, this Court formulated the following substantial questions of law involved in this case :-

- "1. Whether in view of the finding recorded by the learned trial Court on issue No.3, which has been affirmed by the appellate Court, the judgments passed by both the Courts below extending the benefit of promissory estoppel in the present case is not sustainable in the eye of law?
2. Whether the law of promissory estoppel popularly known as equitable estoppel is meant to mitigate the rigor of law to promote justice and honesty in society and not to promote playing mischief in society?
3. Whether both the Courts below in the present case have committed substantial error of law in extending the benefit of promissory estoppel to the

plaintiff, who is seeking admission in M. Ed. course without passing the B. Ed. course from a recognized University.?

4. Whether the principle of promissory estoppel is applicable in present case when the plaintiff-respondent had got admission on the basis of misrepresentation and concealment of his educational qualifications?"

3. The dispute between the parties had its genesis in the fact that the plaintiff-respondent No.1 Rajesh Kumar Makhija applied for and was granted admission in the M. Ed. Course for the Session 1994-95 in the respondent No.2 College that is affiliated to the appellant-University. The plaintiff thereafter applied for and was granted permission to appear in the examination conducted by the appellant-University on Roll No. 89316. The result of M. Ed. Examination was declared on 4-7-1995 but the result of the plaintiff was withheld; and after his notices, by the letter dated 15-5-1996, the appellant-University informed the plaintiff of cancellation of his admission for the reason that he was "admitted wrongly in the College as he has passed B. Ed. (Bridge Course) from Rajasthan Vidya Peeth (Bal Vikas), Udaipur which is not equivalent in this University for admission to M.Ed. Class course". Having received such cancellation order, the plaintiff filed the present suit.

PLAINT AVERMENTS :

4. The plaintiff filed the suit seeking the reliefs of injunction and declaration with the averments in the plaint that he had passed B. Ed. (Bal Vikas) and B. Ed. (Bridge Course) from Rajasthan Vidya Peeth (Deemed University), Udaipur and was serving as Grade-II Teacher. The defendant No.2 College had invited applications for admission to M. Ed. Course for the Session 1994-95 and the plaintiff submitted his application with all necessary documents. The defendants after completion of all necessary formalities and for the plaintiff fulfilling the minimum eligibility, directed him to deposit the fees for admission and in compliance thereof the plaintiff deposited Rs. 3850/- on 24-8-1994 under receipt No. 2500. The plaintiff took part in all the academic activities for the whole year and completed his training. The examinations are conducted by the defendant No.1 (University) and the plaintiff deposited examination form with necessary documents and prescribed fees; he was issued admission card before the examination and was allotted Roll No. 89316. The plaintiff faithfully made preparations, took examination, deposited dissertation and appeared in viva voce. However, when the result of M.Ed. was declared on 4-7-1995, his result was kept in abeyance. Upon contacting the office of defendant No.1, the plaintiff was assured for declaration of result very shortly and despite four representations and personal meetings and requests, his result was not declared; and thereafter, by the letter dated 15-5-1996, the defendant No.1, instead of declaring the result, cancelled the examination of the plaintiff on the ground that he had passed B. Ed. (Bridge Course) from Rajasthan Vidya Peeth that was not of prescribed eligibility. The

plaintiff made several requests for declaring the result but in vain.

5. The plaintiff contended that his educational qualifications were thoroughly checked at the time of admission and then only he was granted admission after charging the fees; and the admission card was also issued to him after all necessary checkings and hence the defendants were bound by the principles of the promissory estoppel. The plaintiff asserted that after completion of the entire academic work and taking of examination, the admission could not be cancelled and, therefore, he was entitled for an order against the defendants for declaring the result of his M. Ed. Examination; and that the letter dated 15-5-1996 was non est, illegal and void.

WRITTEN STATEMENTS :

6. The defendants filed separate written statements. The defendant No.2 averred that the plaintiff had passed B. Ed. (Bal Vikas) and B. Ed. (Bridge Course) from Rajasthan Vidya Peeth but he had not stated such facts particularly at Sl. No.1 of Para 9 of the admission form ; and it was clearly stated in the instructions on the back side of the form that the admission would be treated as confirmed only after approval from the University and, therefore, the admission was only provisional. It was asserted that even in the list of attested copies filed along with the form, the plaintiff stated only about B. Ed., and that he had craftily filled in his form and attempted to somehow get the M.Ed. Degree. Upon inquiry, it was found that the plaintiff was not B. Ed. but he had only passed B. Ed. (Bridge Course) from Rajasthan Vidya Peeth and after thorough consideration of the entire matter the defendant No.1 had rightly issued information of cancellation of the admission; entire delay was caused because the plaintiff had concealed the facts in the enrolment form also and, therefore, his enrolment fees was got deposited and he was permitted to appear in the examination but later on it was found that he was not B. Ed. but had done B. Ed. (Bal Vikas and Bridge Course). In the additional plea, it was also suggested that the father of the plaintiff was a Lecturer in the Teachers Education College of Rajasthan Vidya Peeth that was also having the M. Ed. course, and the plaintiff could have done his M. Ed. from Rajasthan Vidya Peeth but he wanted to conceal the fact of Bridge Course and to get his M. Ed. and, therefore, cleverly filled up the form; and upon appropriate proceedings, his M. Ed. admission was rightly cancelled because B. Ed. (Bridge Course) was not equivalent to B. Ed. nor the same was recognized by the University.

7. The defendant No.1, the appellant- University, submitted in its written statement that it had granted equivalence only to the extent that its B. Ed. and M. Ed. were equivalent respectively to B. Ed. and M. Ed. degrees of Rajasthan Vidya Peeth; and the so-called B. Ed. (Bal Vikas) and B. Ed. (Bridge Course) was not recognized as equivalent to B. Ed. and, therefore, the defendant No. 2 College ought not to have granted admission to the plaintiff nor he could have been enrolled with the University; that the necessary certificates and degrees are not enclosed with the examination form

and, therefore, in routine, treating the plaintiff to be having prescribed qualification, was issued roll number for M.Ed. Examination. His taking part in the examination was not denied but it was asserted that when it came to the notice of the University that the plaintiff was not carrying the requisite B. Ed. Degree; and B. Ed. (Bal Vikas) and B. Ed. (Bridge Course) of Rajasthan Vidya Peeth having not been recognized as equivalent to the B. Ed., his result withheld and later on his admission was cancelled and the principles of promissory estoppel do not apply.

ISSUES:

8. On the pleadings of the parties, the learned trial Court framed the following issues for determination of the questions involved in the suit:-

(Vernacular matter omitted.....Ed.)

EVIDENCE : ORAL and DOCUMENTARY

9. In oral evidence, the plaintiff examined himself as PW-1 whereas the defendants examined one Ramesh Chandra Joshi, a UDC in the defendant- University as DW-1/1 and another Dr. Surendra Mohan Nayyer, a Professor in Vidya Bhawan Teachers Education College as DW-1/2. In documentary evidence, the plaintiff produced admission form as Ex. 1, his mark sheet of B. Ed. (Bal Vikas and Bridge Course) as Ex. 2, Fees Deposit Receipt as Exs. 3, Representations and Notices as Ex. 4 to 7, and Personal Bio-data form as Ex. 8. On the other hand, the defendants produced the letter dated 15-5-1996 as Ex. A/1 and the Admission Card of the plaintiff as Ex. A/2.

FINDINGS OF THE TRIAL COURT :

10. The learned trial Judge, after hearing the parties finally, proceeded to determine the issues involved in the case by the judgment dated 20-1-1998. On issue No.1, the learned Judge, after considering the evidence of the parties, found that the plaintiff was granted admission and he took part in all the educational activities and appeared in examination and upon his request for declaring the result, the defendants came out with cancellation of his admission. The learned Judge, relying on the decisions of the Hon'ble Supreme Court and this Court, found that the College and the University have granted admission and permitted the plaintiff to take examination then the result cannot be withheld on the ground that he was not fulfilling eligibility conditions. The learned Judge was of opinion that if the degree in question was not treated as equivalent, it was the responsibility of the College and the University to have informed the student at the initial stage and they cannot be permitted to play with the life and career of the plaintiff. On issue No.2, the learned Judge was of opinion that from the material available on record, no misrepresentation or fraud could be imputed upon the plaintiff, and the College and the University both acted with callous negligence and their action of cancellation of the admission and enrolment was not justified. On issue No.3, the learned Judge found that according to the University, B. Ed. (Bal Vikas and Bridge Course) was not recognized as equivalent to B. Ed. and it

was, of course, true that equivalence could be decided by the Academic Council of the University, however, non-recognition of this degree as equivalent would be of no effect in the present case because both the University and the College have committed serious irregularities *qua* the plaintiff.

11. On the considerations aforesaid, the learned Judge found the plaintiff entitled for the relief of declaration of his result and the letter dated 15-5-1996 was found liable to be declared illegal and void. The learned trial Court, accordingly, decreed the suit.

FINDINGS BY THE FIRST APPELLATE COURT :

12. The defendant-University preferred an appeal against the judgment and decree dated 20-1-1998 and the learned appellate Judge, by the judgment dated 1-2-1999, endorsed the findings of the trial Court and observed that if the plaintiff was not fulfilling the requirements of educational qualification, he ought to have been informed beforehand or at least should not have been issued admission card and after his taking of the examination, the result could not be withheld. The learned appellate Judge again found that the plaintiff had not concealed any fact at the time of filling up of the forms. The appellate Court, accordingly, dismissed the appeal and affirmed the decree against the defendants.

SECOND APPEAL BEFORE THIS COURT:

13. The defendant-University has come up in Second Appeal before this Court against the judgment and decree dated 1-2-1999 and fundamentals of their submission are that with the concurrent finding on issue No.3 by the two Courts below it remains undeniable that the degree obtained by the plaintiff was not equivalent to the degree of B. Ed. of the appellant-University and, therefore, the plaintiff's admission was *ab initio* illegal. It has been contended that the documents produced before the Court show it clearly that the plaintiff has not given true, correct and proper information to the College and had intentionally withheld the information regarding his educational qualification and intentionally did not disclose that he was having the degree of B. Ed. (Bal Vikas) and B. Ed. (Bridge Course); that it was a clear case of misrepresentation and on that basis the plaintiff got admission in M. Ed. Course which was subsequently cancelled by the University when the enrolment form was scrutinized. It has also been contended that the Courts below have decreed the suit on the principles of promissory estoppel but on the facts and in the circumstances of this case, such principles of promissory estoppel have no application because the plaintiff secured admission on the basis of wrong information and had he mentioned the particulars of his B. Ed. Degree in the admission form and the examination form, the authorities would not have allowed him to appear in the M.Ed. examination. It has also been contended that the Courts in their discretion would not grant admission to ineligible candidates and when it was an admitted fact that the plaintiff was having such a degree which was not recognized as equivalent to the B. Ed. Degree by the appellant-University, both the

Courts below were in error in holding that the plaintiff was entitled to get his result declared. It has further been contended that the Courts below could not have directed the appellant- University to act contrary to the rules; and as per the rules of the University, the plaintiff was not entitled to get admission to M. Ed. course hence the impugned judgment and decree are liable to be set aside. According to the appellant, the Courts below have unnecessarily interfered in the functions of the University and their reliance upon the judgments' of the Apex Court was misplaced because therein the admission was not secured by misrepresentation whereas in the present case the plaintiff had secured admission on the basis of misrepresentation.

14. Learned counsel for the appellant- University has referred to and relied upon the decisions in *Miss Amrita Kochar v. Board of Secondary Education* ¹ *Dharmendra Acharya v. The State of Rajasthan and Ors.* ² *Ashok Kumar Aseri v. University of Jodhpur and Ors.* ³ and *Manju Bhatia v. New Delhi Municipal Council,* ⁴

15. Per contra, it has been contended on behalf of respondent-plaintiff that there was no suppression of facts by the plaintiff and the marks sheet and degree were attached with admission form; and the entire case of the appellant-University that the plaintiff concealed any fact remains baseless. It has further been contended that the plaintiff having given all the information and the University authorities having granted admission and having permitted taking of examination, are clearly estopped from questioning his admission. It has been urged that the decision on issue No.3 is of no consequence on the rights of the plaintiff and whether the University had treated the degree obtained by the plaintiff as equivalent to its own B. Ed. degree or not, the plaintiffs being a degree of Bachelor of Education granted by a recognized University, and admission having been granted to the plaintiff, he cannot be said to be suffering from fundamental lack of eligibility and could not have been denied the result of his examination. Learned counsel for the respondent has referred to and relied upon the decisions in *Board of Technical Education and Anr. v. Anupama Goyal and Anr.* ⁵ *Santan Gauda v. Berhampur University,* ⁶ and *Shri Krishan v. Kurukshetra University* ⁷

16. Having given a thoughtful consideration to the rival submissions and having examined the material placed on record, with reference to the law applicable to the case, this Court is clearly of opinion that the present appeal is devoid of substance and material aspects of the questions involved in the present case deserve to be decided against the appellant-University and the appeal deserves to be dismissed with costs.

SUBSTANTIAL QUESTIONS OF LAW Nos. 2 and 4 :

17. Substantial Question of Law Nos. 2 and 4 in the present case relate to the submission of the appellant-University that the plaintiff secured admission by way of misrepresentation and concealment of material facts. It has been the principal

submission of the University that the principles of promissory estoppel could not be applied because the respondent plaintiff was lacking in the necessary eligibility and that he concealed the facts of his want of eligibility.

18. The learned courts below have recorded the findings concurrently in favor of the plaintiff and have come to the conclusion that the plaintiff cannot be held guilty of concealment of any information. However, in view of the broader questions formulated in this case, it appears appropriate to examine the evidence available on record to test such findings on merits although, ordinarily, in a second appeals this court would not re-appreciate evidence particularly in relation to the findings of fact.

19. The admission form has been placed on record as Ex. 1; and in Para 9 thereof, the applicant was required to state his educational and professional qualifications and the relevant particulars stated by the plaintiff at Sl. No. 1 of Para 9 read thus,-
(Vernacular matter omitted.....Ed.)

20. In his personal data form (Ex. 8) under the heading of Academic Record, the relevant entry has been made in the following manner,-
B.Ed. Eajasthan Vidya Peeth 94, 61.2%

21. The relevant marks sheet of the plaintiff, Ex. 2 reads as under , -
"Rajasthan Vidyapeeth, Udaipur
B. Ed. (B. Ed. Balvikas and Bridge Course Consolidated) 1994

MEMORANDUM OF MARKS

Sr. No. 00758 Roll No. 7777 Enrol. No. 88/602 Reg. Name : Rajesh Kumar Makhija
Father's Name : Manohar Lal Makhija

Paper No	Subject	Max Marks	Mini Marks	Int Ass	Ext. Ass.	Total Marks Obtained	Remarks
	THEORY :						
	Compulsory Papers :						
	(B.Ed. (Bal - Vikas) 1993)						
I	Child Edu. & Indian Society	100	30	16	39	55	
II	Psy-Social Basis of	100	30	16	45	61	

	Child Dev.& Learning						
III	Mingt. & Health Edu. of Pre-Pri Schools	100	30	16	48	64	
IV	Prin. & Method of Pre-Primary Education	100	30	17	44	61	
V	Prin. & Method of Pri. Edu. 100	30	19	45	64		
	B.Ed(Bridge Course) 1994 :						
VI	Foundation Course of Edu.	100	30	18	43	61	
	Optional Papers :						
	Methods of Teaching School						
	Subjects						
I	Hirdi	100	30	15	37	52	
II	S.S.II	100	30	21	50	71	
	PRACTCAL						
I	Pre-Primary	100	40	31/50	32/50	63	

Paper No	Subject	Max Marks	Mini Marks	Int Ass	Ext Ass	Total Marks Obtained	Remarks
II	Primary	100	40	33/50	35/50	68	
III	Practice	200	80	63	61	124	

	Teaching						
	Educational Social Work			100	100		A
	Total Aggregate of Marks Obtained			Result	Div.		
	Theory Practical						
	489/800 255/400			I	I	Eligible to appear with Higher Exam. In Paper Marked	

22. It is not in dispute that this marks sheet was attached by the plaintiff with his admission form and even a glance thereat is sufficient to find that the plaintiff has done B. Ed. (Bal Vikas and Bridge Course) and respective marks in Bal Vikas and Bridge Course have been distinctly enumerated. The allegation of concealment of facts as leveled against the plaintiff does not appear to be justified. On a mere look at the marks sheet, the particulars of the plaintiff's B. Ed. degree could be found out; and in fact, the defendants have not only looked at, but have even scrutinized this marks sheet as shall be evident hereafter.

23. It has repeatedly been suggested in evidence that the plaintiff had not mentioned about B. Ed. (Bal Vikas and Bridge Course) in the aforesaid Sl. No. 1 of Para No. 9 of the admission form and this aspect alone has been relied upon by the defendants to allege that the plaintiff concealed the facts. However, the substratum of the case of the defendants falls to the ground on a bare look at the cross-examination of DW-1/2 Dr. Surendra Mohan Nayyer. From his testimony, it becomes apparent that admission to M. Ed. course was granted only on the basis of "merit"; and this "merit" was prepared on the basis of the marks obtained by the candidate in his qualifying examination and that the percentage stated by the candidate were "tallied" with the percentage available in the marks sheet. The entire cross-examination of this witness reads thus,-
(Vernacular matter omitted.....Ed.)

24. On the admission form Ex. 1, there are clear indications that the figures of 61.61 have been taken for the candidate's B. Ed. percentage and then 3.00 have been provided for other courses and '64.6' have been counted for this candidate. Significantly, the defendants' witness has categorically admitted the fact that the percentage were got "tallied" with the marks sheet. This simply could not have been done without examining the marks sheet itself.

25. Then, in the data form Ex. 8, the words in parenthesis "(BC)" have specifically been stated in hand, after the printed words "B. Ed."; and undoubtedly "BC" stood for 'Bridge Course'. The allegations on the part of the University of concealment of facts or information upon the plaintiff are rather preposterous. The learned Courts below were perfectly justified in coming to the conclusion that the plaintiff cannot be held guilty of the concealment of any information.

26. The Hon'ble Supreme Court in Sri Krishna's case (AIR 1976 SC 376) (supra) observed that the candidate cannot be held guilty of fraud when the authorities had ample time and opportunity to find out the defect.

27. A Division Bench of this Court in Anupama Goyal's case (AIR 1999 Rajasthan 280) (supra) relying upon and exploring such principles held (para 14) :-

"We are of the view that in the present case, equally a duty was cast upon the appellants to see within reasonable time that admission norms are complied with by all the students seeking admission in Three Years Diploma Course of Modern Office Management in the institution. If neither the Head of the Department nor University authorities had cared to scrutiny admission forms within reasonable time then holding petitioner-respondent No. 1 responsible for suggestio falsi or supperssio veri is not tenable. We are of the view that there was ample time and opportunity to the Head of the Department and University Authorities to have found out defects within the reasonable time and if they failed to do so, this objection cannot be allowed to be raised when petitioner-respondent No. 1 is about to complete here Three Years Diploma Course in Modern Office Management. It is held that where a institution on whom misrepresentation is alleged to have been committed in seeking admission for prosecuting higher studies is found to be in a position to discover the truth by due diligence but it failed to do so within reasonable time, in such situation, cancellation of admission of a student who is about to complete his/her final year course is not conducive to the concept of justice and fair play. Fairness is an important component of justice and it is always to be taken into account in

administration of justice to all with even-handed, justice-oriented approach.

Fairness has not set form or procedure. It depends upon the facts of each case."

(Emphasis supplied)

28. The ratio aforesaid applies directly to the present case. When the plaintiff had stated all the information and the same had even been scrutinized while "tallying" the marks because the admission was granted only on "merit", the defendants not only had opportunity to examine the qualification stated by the plaintiff, they in fact did so and then consciously accorded admission to the plaintiff and permitted him to take examination.

29. Answer to questions 2 and 4, therefore, remains that the plaintiff is not guilty of concealment of any information, and if otherwise the principles of promissory estoppel apply, their application could not be ruled out for any conduct of the plaintiff. However, it remains true that while applying the principles of promissory estoppel, the appellant-University cannot be forced to do the impossible, or for that matter to perpetuate an illegality.

SUBSTANTIAL QUESTIONS OF LAW No. 1 and 3 :

30. It has been strenuously contended on behalf of the University that once it was found that the B.Ed. (Bal Vikas and Bridge Course) was not treated equivalent to the B.Ed. Degree by the University, even on the principles of promissory estoppel the illegal admission of the plaintiff could not be regularized and, therefore, once issue No. 3 was decided in favor of the appellant-University, the suit was bound to fail. The submission of the appellant-University appears attractive but remains hollow; and the cases sought to be relied upon by the learned counsel for appellant have no application to the facts of the present case.

31. In Amrita Kochar's case (supra), the candidate did not secure minimum of 33 marks in English subject in secondary examination and, therefore, she was not qualified to be admitted to Class XI and yet she was granted admission in Class XI and then her examination form for Class XII was sent to the Board of Secondary Education. The candidate was refused eligibility certificate for having not secured 33% in English subject in her secondary examination. Similarly, in Dharmendra Acharya's case (supra), again the candidate had not secured minimum requisite marks in secondary examination and he could not have been permitted to appear in Higher Secondary (Class XII) Examination even if he was admitted to Class XI.

32. In the case of Ashok Kumar Aseri (AIR 1995 Rajasthan 33) (supra), the candidate appeared in B.E. First year examination in the year 1990 and failed in 8 theory papers and one sessional paper of Humanities, he again appeared in the year 1991 but was

unsuccessful in 4 theory papers and 2 sessional papers. On the recommendations of a Committee, some other students of SC/ST category who were unsuccessful in 5 units, were given admission in the next higher class. The petitioner-appellant also made representation to allow him to keep term in the next higher class but his request was not accepted. Dissatisfied, he preferred a writ petition on the ground of discrimination. The writ petition was dismissed and an appeal taken to the Division Bench was also rejected on merits and it was found that the petitioner could not be granted relief on the ground of discrimination. In that context the contention of the petitioner to keep term in the higher class in view of the ad interim orders was also found to be baseless. The Hon'ble Division Bench found that the petitioner was not denied admission in higher class merely on technicalities but was refused admission, for, he could not pass the requisite papers and failed. Therefore, provisional admission granted on the basis of interim orders of this Court conferred no right in the petitioner.

33. Moreover, in Ashok Kumar Aseri's case (AIR 1995 Rajasthan 33), reliance placed by the petitioner on the decision of Hon'ble Supreme Court in *A. Sudha v. University of Mysore*⁹ was found to be not helpful to the said appellant because in A. Sudha's case the college itself was responsible for admitting an ineligible candidate without any fault of the candidate who continued her studies by virtue of the interim orders of the Court. Similarly, the case of *Ashok Chand Singhvi v. University of Jodhpur*¹⁰ was distinguished because in that case the candidate did not conceal anything from the University but he was granted admission after considering all the relevant facts; and in such background, it was held by the Hon'ble Supreme Court that the candidate cannot be made to suffer by putting in abeyance or cancelling his admission after joining the classes for the mistake committed by the Universities themselves in granting admission on the basis of a resolution.

34. Obviously, the fact situation of Ashok Kumar Aseri's case (AIR 1995 Rajasthan 33) was entirely different and A. Sudha and Ashok Chand Singhvi's cases could not have applied thereto, but the aforementioned ratio directly applies to the present case on all fours, inasmuch as the plaintiff herein has also not concealed anything from the University and he had been granted admission and permission to take examination after consideration of all the relevant facts. The University Authorities cannot turn around and question the admission of the appellant.

35. The case of Manju Bhatia (AIR 1988 SC 223) (supra) relating to the principles of equity has no direct application to the facts of the case but even on the principles enunciated therein by the Hon'ble Supreme Court, it is found that in the legal sense import of equity has been to do justice in particular case where the strict rules of law cause hardships. The principles of justice and conscience are the basis of equity jurisdiction, of course it must not be taken that the contrast between law and equity is one between the system of strict rules and of broad discretion. Just as the common law

has escaped from its early formalism. so over the years, equity has established some stricter rules for the application of its principles. In the context of the present case, suffice is to notice that the law is, by and large, well settled that the principles of promissory estoppel do apply in the matters of education and upon the Universities, but are circumscribed by the very basic requirements that in the name of promissory estoppel, illegality cannot be perpetuated and the University cannot be asked to do the impossible or impermissible.

36. In contradistinction to the submissions made by the learned counsel for the University, principles emanating from the cases of Sanatan Gauda (AIR 1990 SC 1075) and Shri Krishan (AIR 1976 SC 376) (supra) directly apply to the facts of the present case.

37. In the case of Sanatan Gauda (supra), the candidate while securing his admission in three years' law course had admittedly submitted his marks sheet along with application for admission and pursued his studies for two years and the University permitted him to appear in two examination and he was admitted to the final year of the course and then at the stage of declaration of his results of pre-law and inter-law examinations that the University raised objection to his so-called ineligibility to be admitted to the law course. The question involved was as to whether on the interpretation of Regulation-1 in Chapter VIII relating to Bachelors of Law examination read with Regulation 10 in Chapter V relating to Masters Degree Examination, the candidate was not qualified to be admitted to the law course. This being a matter of interpretation of its own Regulations by the University, in the concurring opinion it has been observed that :-

"He had produced his marks-sheet before the College authority with his application for admission, and cannot be accused of any fraud or misrepresentation."

and that,-

"it was the bounden duty of the University to have scrutinized the matter thoroughly before permitting the appellant to appear at the examination and not having done so it cannot refuse to publish his results."

It was ruled by the Hon'ble Supreme Court that –

""The University is, therefore, clearly estopped from refusing to declare the results of appellant's examination or from preventing him for pursuing his final

year course."

38. In the case of Shri Krishan (AIR 1976 SC 376) (supra), the Hon'ble Supreme Court held (Para 6) :-

"It is, therefore, manifest that once the appellant was allowed to take the examination, rightly or wrongly then the statute which empowers the University to withdraw the candidature of the applicant has worked itself out and the candidate cannot be refused admission subsequently for any infirmity which should have been looked into before giving the candidate permission to appear."

39. Having regard to the fact-situation of the present case, this Court is clearly of opinion that when the plaintiff had stated all the information and the same has even been scrutinized while "tallying" the marks because the admission was granted only on "merit" the defendants not only had the opportunity to examine the qualification stated by the plaintiff, they in fact did so and then consciously accorded admission to the plaintiff and permitted him to take examination. Withholding of result thereafter cannot be held to be justified and rather appears to be *mala fide* too.

40. Even otherwise, lack of basic qualification stands at an entirely different footing and cannot be equated with a disputed proposition of grant of equivalence to a degree by a particular University. It is wrong to suggest as put in the grounds of appeal, that the Courts below have interfered in the functioning of the University. Granting or not of the equivalence may be within the domain of the Academic Council but then, it is not in dispute that B.Ed. Degree of Rajasthan Vidya Peeth is treated equivalent by the appellant- University to its B.Ed. Degree. Now, if a B.Ed. Degree has been obtained by a candidate after undergoing B.Ed. Bal Vikas any then Bridge Course, the degree nevertheless remains a degree of 'Bachelor of Education'. It is a different matter that the same degree is recognized by the Government as a B.Ed. Degree and the plaintiff is shown to be working as Grade-III teacher on the basis of this very degree, but leaving that aspect aside, even if it be left at the sound discretion of the University to grant equivalence or not to a particular degree, this Court is clearly of opinion that the present case cannot be equated with the cases of fundamental lack of qualification for which the candidate i.e. the plaintiff could not at all have been admitted to the M.Ed. Course.

41. Still further, as a matter of reference, it may be pointed out that so far this degree of B.Ed. (Child Development) followed by Bridge Course is concerned, a question came up before this Court, albeit in the context of the eligibility conditions laid down by the State Government, about nature and status of such degree as to whether it was a degree in education? The Hon'ble single Judge of this Court held that Rajasthan Vidya Peeth being a deemed University, the degree granted by it has to be accepted as such

and it was not open for the State Government to decide as to whether such a degree is equal to the degree prescribed under the Rules governing the field. The State took the matter in appeal and the Hon'ble Division Bench in the case of *State of Rajasthan v. Karan Singh Rathore*,¹¹ has addressed to the core question as to whether the degree of B.Ed. (Child Development) followed by Bridge Course awarded by Rajasthan Vidya Peeth, Udaipur is a degree in education? The Hon'ble Division Bench held with reference to the qualifications provided by the Government requiring degree in education, that such requirement was not circumscribed by any other condition like recognition of the degree by the State Government or the degree with specified duration of the courses with specific subjects et.al. It was held that the Rules leaves no scope for the State Government to entertain the exercise of drawing equivalence. In such a context, the Hon'ble Division Bench pointed out that the Hon'ble Apex Court in the case of *Dr. B. L. Aswa v. State of Rajasthan*,¹² has held that in case of a post-graduate degree by a statutory Indian University, no recognition or declaration of equivalence by any other University is called for.

42. It may also be pointed out that during course of the arguments, learned counsel for the parties admitted the fact that this very degree of the Rajasthan Vidya Peeth has not only been recognized by the Government of Rajasthan, even the appellant University has also taken decision to recognize the same degree equivalent to the corresponding B.Ed. Examination of the appellant-University on the condition of the candidate completing the proposed Bridge Course in continuation of B.Ed. (Bal Vikas) in the same session and an entrance examination on the lines of P.T.E.T. be introduced. The fact remains that the degree obtained by the plaintiff had been of B.Ed. after having completed his B.Ed. (Bal Vikas) and so also B.Ed. (Bridge Course) and it was not the degree of B.Ed. (Bal Vikas) alone as sought to be suggested at some places. In any event, therefore, it cannot be said to be a case of fundamental lack of qualification for which this candidate, i.e. the plaintiff, could not have taken admission in M.Ed. Course at all.

43. In such a scenario, the learned Courts below were right in observing, and this Court is firmly of opinion, that it was required of the College and the University to have denied admission or enrolment to the plaintiff at the outset if there was any question mark over the degree on whose basis he sought admission and permission to appear in examination. Not only that the plaintiff was admitted but he was even permitted to take examination and then the examination was purportedly cancelled nearly ten months after withholding the result. The University, an instrumentality of the State, cannot simply act with such unconcerned attitude and perfunctory approach.

44. The principles enunciated by the Hon'ble Supreme Court in *Sanatan Gauda* (AIR 1990 SC 1075) and *Sri Krishna* (AIR 1976 SC 376) (supra) directly apply with full force to the facts of the present case and the act on the part of the University in

seeking to cancel the examination of the plaintiff deserves to be and has rightly been declared grossly illegal.

45. Obviously, the answer on questions 1 and 3 are that the finding on issue No. 3 has no impact on the operation of principles of promissory estoppel in the present case and both the Courts have proceeded in conformity with law and have not erred in applying the principles of promissory estoppel in the present case and, of course it cannot be said that the plaintiff has not passed his B.Ed. from a recognized University. The suit has rightly been decreed.

CONCLUSION :

46. The net result of the discussion aforesaid is that the plaintiff is not guilty of concealment of any information and the principles of promissory estoppel do directly apply in the present case. The learned trial Court was perfectly justified in decreeing the suit filed by the plaintiff-respondent No. 1 and the learned first appellate Court has also rightly dismissed the appeal.

47. The present appeal remains totally devoid of substance and is, therefore, dismissed with costs.

Appeal dismissed.

Cases Referred.

1. D. B. Civil Special Appeal No. 649/1997, decided on 14-7-1997
2. 1992 (2) WLC (Raj) 202
3. 1994 (1) WLC (Raj) 321: (AIR 1995 Raj 33)
4. AIR 1998 SC 223
5. 2001 (1) RLW 298: (AIR 1999 Rajasthan 280)
6. AIR 1990 SC 1075
7. AIR 1976 SC 376
8. (1987) 4 SCC 537
9. (1987) 4 SCC 537
10. (1989) 1 SCC 399: (AIR 1989 SC 823)
11. 2002 (1) WLC (Raj) 445
12. AIR 1982 SC 933