

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 04.09.2009

+ **W.P.(C) 11452/2009**

MS. SONAL ARORA

..... Petitioner

- versus-

GGSSIP UNIVERSITY & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. R.K. Saini

For the Respondents : Mr. G.D. Goel, Advocate for Respondent No.1.

Mr. Jatan Singh, Advocate for Respondent No.2.

CORAM:-

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MS. JUSTICE VEENA BIRBAL

1. Whether the Reporters of local papers may be allowed to see the judgment? yes
2. To be referred to the Reporter or not? yes
3. Whether the judgment should be reported in Digest? yes

BADAR DURREZ AHMED, J (ORAL)

1. The petitioner is aggrieved by the fact that she is not being considered for admission to the part time MBA course of the Guru Gobind Singh Indraprastha University (hereinafter referred to as 'the University'). The grievance of the petitioner is that the requirement of having work experience

of a minimum of one year at the level of Executive/Supervisor/Teaching Faculty in an institution located in NCR region, is arbitrary and beyond what has been prescribed by the AICTE which is the national regulatory body for all technical education including management courses.

2. Mr. Saini, the learned counsel for the petitioner, submitted that the full time MBA course is of two years, whereas the part time MBA course of the said University is of three years. He submitted that this condition of one year work experience has not been specified insofar as admission to the full time course is concerned and, it has only been made a condition for the MBA part time course. He also referred to the norms and standards for management education and technical education stipulated by the AICTE. He submitted that the said norms and standards do not prescribe that one year work experience would be an eligibility condition for seeking admission to any of the post-graduate management courses. The learned counsel for the petitioner placed reliance on the decision of the Supreme Court in the case of *State of T.N. And Another v. Adhiyaman Educational & Research Institute And Others*, (1995) 4 SCC 104. In particular, he placed reliance on the following observation of the Supreme Court appearing in paragraph 22 of the said report:-

“...The norms and standards have, therefore, to be reasonable and ideal and at the same time, adaptable, attainable and maintainable by institutions throughout the country to ensure both quantitative and qualitative growth of the technically qualified personnel to meet the needs of the country. Since the standards have to be laid down on a national level, they have necessarily to be uniform

throughout the country without which the coordinated and integrated development of the technical education all over the country will not be possible which will defeat one of the main objects of the statute....”

3. He also placed reliance on the following observations appearing in paragraph 41 of the said decision:-

“...However, when the situations/seats are available and the State authorities deny an applicant the same on the ground that the applicant is not qualified according to its standards or qualifications, as the case may be, although the applicant satisfies the standards or qualifications laid down by the Central law, they act unconstitutionally.”

4. We have also heard the learned counsel for the AICTE as well as the learned counsel for the University. The learned counsel appearing on behalf of the AICTE submitted that the AICTE is the national regulatory body insofar as the technical education is concerned. He submits that the MBA course is covered under the definition of ‘Technical Education’ as appearing in Section 2(g) of the AICTE Act, 1987. He submitted that the norms and standards prescribed by the AICTE have to be adhered to by all the educational institutions. He also submitted that the standards prescribed are the minimum standards. The institution may prescribe higher standards. The learned counsel for the University submitted that the norms and standards prescribed by the AICTE have been adhered to by the University. He submitted that there was no non-compliance of the norms and standards. According to him, the criteria for eligibility for the MBA course included academic records/work experience. He referred to the norms and standards

and to the portion which specifies the ‘entry qualification’. The said portion reads as under:-

“ENTRY QUALIFICATION

The minimum qualification for entry of Postgraduate Programme in Management is any Bachelor degree recognized by Association of Indian Universities. The selection of candidates to the programme should be done on the following basis:

- A. An All India Written Admission Test to assess applicants attitude and preparedness as given in Annexure I.
- B. Academic Records/Work Experience, and
- C. Performance in group discussion and interview.

NOTE:

- 1. Scores obtained in the All India Written Test would have a minimum weightage of 50%.
- 2. University may have their own admission test for the institutions affiliated.
- 3. If admission is not done on the basis of All India Written Test, it is essential to stipulate minimum requirement of 50% aggregate marks in the qualifying bachelors degree if the screening is done at the local/state/regional level.”

5. The learned counsel for the University also submitted that the petitioner participated in the Common Entrance Test which was held for the academic session 2009 and secured the rank of 3222. He further submitted that the petitioner was not successful in the first round of counseling and it is only in the second round of counseling that the petitioner has raised this issue, belatedly. The learned counsel for the University submitted that the condition with regard to the requirement of one year work experience was clearly stipulated in the admission brochure for professional programmes which was made available for sale on 10.02.2009 and it is pursuant to the

said brochure that the petitioner applied and appeared in the entrance test. He submitted that for this reason also, the writ petition ought to be dismissed.

6. In rejoinder, Mr. Saini, the learned counsel for the petitioner, submitted that the entry qualification specified by the AICTE indicates that the selection of candidates to the programme has to be done on the basis of, inter alia, “academic records/work experience”. He submitted that this meant either the academic records are to be looked into or the work experience has to be seen and, this is also to be done at the time of selection of the candidates and not as an eligibility condition. According to Mr. Saini, after the first round of counseling, 213 seats in MBA part time course and 52 seats in MBA-IB (International Business) course remained vacant and the last candidate who was offered admission in the MBA part time course had ranked 2495 at the end of the first round of counseling. Thus, according to Mr. Saini, the petitioner has a good chance of getting admission in the MBA part time course in the second round of counseling if this condition of one year work experience is not insisted upon.

7. We have heard the counsel for the parties, without requiring respondents to file their counter-affidavits because of the urgency of the matter. The second counseling is in progress and is likely to go on to 08.09.2009. The learned counsel for the University states that it may even close earlier, in case all the seats are filled up by then. We find that the

petitioner had graduated from BLS Institute of Management after completing her course of Bachelor of Business Administration. She applied for the MBA course of the said University and appeared in the Common Entrance Test-2009. As aforesaid, she obtained the rank of 3222. At this juncture, we may note that the eligibility condition stipulated by the University for the MBA and MBA part time courses are as under:-

“MBA

Any recognized Bachelor’s Degree in any discipline with a minimum of 50% marks in aggregate.

OR

Bachelor’s Degree in Engineering, Technology or any other subject with minimum of 50% marks in aggregate or any qualification recognized as equivalent thereto with minimum of 50% marks in aggregate.

OR

Passed the Final Examination of the Institute of Chartered Accountants of India or England, the Institute of Cost and Works Accountants of India or England or the Institute of Company Secretaries of India.

MBA (Part Time)

(a) Graduate from any discipline from a recognized University

OR

Passed the Final Examination of the Institute of Chartered Accountants of India or England, the Institute of Cost and Works Accountants of India or England or the Institute of Company Secretaries of India.

(b) Must have work experience of minimum one year at the level of Executive/Supervisor/Teaching Faculty in an institution located in NCR Region.

(c) No Objection Certificate from the employer for pursuance of MBA (PT) programme.

The classes of MBA (PT) programme will be held in the evening from 5.00 p.m. onwards.”

8. Apart from this, we also observe that the notification with regard to the counseling/admission to the MBA/MBA(PT)/MBA (International Business) Course for the year 2009-10 also carried a note, namely, Note -2 to the following effect:-

“2. The requirement for taking admission in MBA (PT) programme should be post qualification experience of minimum one year at the level of Executive/Supervisor/Teaching Faculty in the institution located in NCR. No other experience will be counted in this regard.”

9. The petitioner is apprehensive that when she goes for counseling and, because of her rank, she is offered admission, she would not be granted admission because she does not meet the eligibility criteria of having ‘one year work experience’. It is for this reason that the petitioner has approached this Court seeking the striking down of the eligibility criteria of ‘one year work experience’ for admission to the MBA part-time course.

10. The norms and standards prescribed by the AICTE, as mentioned above, clearly indicate, under the head ‘Entry Qualification’, that the minimum qualification for entry to post graduate programme in management is any Bachelor degree recognized by the Association of Indian Universities. It also prescribed that the selection of candidates to the programme should be done on the basis of – (A) An All India Written Admission Test to assess applicants aptitude and preparedness as given in Annexure-I thereto;

(B) Academic records/work experience; (C) Performance in group discussion and interview.

11. Insofar as work experience is concerned, we find that it has been clearly stipulated under the norms and standards prescribed by the AICTE. Even if the argument of Mr. Saini is accepted that either academic records or work experience are to be taken but not both, we find that the University has not veered away from these norms and standards. This would be apparent from a look at the eligibility conditions prescribed for the full time MBA course and the part-time MBA course. For the full time MBA course, academic records have been considered. This is so, because, for the full time course, one of the eligibility conditions is that the applicant must have a recognized Bachelor's degree in any discipline with a minimum of 50% marks in aggregate or a Bachelor's degree in Engineering/Technology or any other subject with 50% marks in aggregate. Such a minimum criteria of obtaining 50% marks in the aggregate has not been stipulated for the MBA part-time course. The only requirement is that the applicant must have graduated from any discipline from a recognized University. However, in alternative to the stipulation of minimum 50% marks in the aggregate, there is the stipulation of minimum one-year work experience at the level of Executive/Supervisor/Teaching Faculty in an institution located in NCR region.

12. From the above, two things are clear. First of all, the stipulation of work experience for the MBA part-time course is not contrary to the AICTE norms and standards because, as mentioned above, the AICTE norms and standards specifically talks of 'work experience' as being one of the entry qualifications. Secondly, even if the argument of Mr. Saini is to be accepted that academic records and work experience are to be used as alternatives and only for selection of candidates, that also stands satisfied inasmuch as for the full-time MBA course, the academic records are looked into, whereas for the MBA part time course, the alternative, that is, the work experience is looked into.

13. Mr. Saini's argument that this has to be looked into only at the time of selection is of no consequence as it is ultimately the entry qualification that has to be based either on academic record or work experience and if one of them is specified for a particular course then the applicant must satisfy that requirement. Therefore, we do not find any difficulty in observing that the University has not contravened the norms and standards prescribed by the AICTE. There is no conflict between the eligibility conditions prescribed by the University and the norms and standards stipulated by the AICTE.

14. We now come to the observations of the Supreme Court which have been relied upon by the learned counsel for the petitioner. The first observation which was relied upon and which appears at paragraph 22 of the decision in *Adhiyaman's* case, makes it clear that the norms and standards

have to be reasonable and ideal and at the same time, adaptable, attainable and maintainable by institutions throughout the country to ensure both quantitative and qualitative growth of the technically qualified personnel to meet the needs of the country. The Supreme Court also observed that since the standards have to be laid down at a national level, they have necessarily to be uniform throughout the country without which the coordinated and integrated development of technical education all over the country would not be possible and which would defeat one of the main objects of the statute. It is obvious that these observations are made in the context of norms and standards to be prescribed by the AICTE. The petitioner in the present case has no grievance against the norms and standards of the AICTE and, therefore, reliance on this observation would be of no help to the petitioner's case.

15. With regard to other observation of the Supreme Court, we find that the Supreme Court observed that when the situations/seats are available and the State Authorities deny an applicant the same on the ground that the applicant has no qualification according to its standards or qualifications, as the case may be, although the applicant satisfies the standards or qualifications laid down by the Central law, they act unconstitutionally. We are of the view that the learned counsel for the petitioner's reliance on this observation, in the facts and circumstances of the present case, is also misplaced. This is so because, as we have already observed above, the

University has not prescribed any standards different from those stipulated by the AICTE. The eligibility conditions of the University are in consonance with the norms and standards prescribed by the AICTE. Therefore, reliance on this observation is clearly misplaced.

For the foregoing reasons and circumstances, there is no merit in the writ petition. The same is dismissed.

BADAR DURREZ AHMED, J

VEENA BIRBAL, J

SEPTEMBER 04, 2009
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