

* IN THE HIGH OF DELHI AT NEW DELHI

W.P.(C) No.2997/2010

Judgment delivered on:4.5.2010

Sadanan Kumar

.....Petitioner.

Through : Mr. Nitin Kumar, Adv.

Versus

University of Delhi & Anr.

..... Respondent

Through : Mr. M.J.S.Rupal, Adv.

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*** HON'BLE MR.JUSTICE KAILASH GAMBHIR**

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

Kailash Gambhir, J. Oral:

1. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks directions to direct the

respondents to allow the petitioner to continue his studies in the course of M.A.(Buddhist) in the Department of Buddhist Studies, University of Delhi. The petitioner also seeks directions to set aside the reply furnished by the respondent under RTI through letter dated 30.4.2010.

2. Mr. Nitin Kumar, counsel for the petitioner submits that the petitioner had secured 42.58% in graduation and that he also did a certificate programme of one month in Sanskrit from "Vasudev Sanskrit Prachar Samiti" which is situated in Abhay Kutir, Sheetal Morg, Villasi Town B-Deoghar, Jharkhand. Counsel further submits that at the time of seeking admission in M.A. (Buddhist), he disclosed the correct facts with regard to his qualification and based on the same he was admitted in the said course. Counsel further submits that necessary identity card and admit card to appear in the Ist semester examinations was also issued to the petitioner after he was formally admitted in the said course. Counsel also submits that the petitioner had appeared in the Ist Semester and he had secured first division and even for the IInd Semester the petitioner had already deposited the examination fee of Rs.710/- vide receipt no. 65108.

Counsel further submits that at the time of the examination for the IInd semester the petitioner was orally told that he was not eligible to appear in the said exam as he was found ineligible to seek admission in the said M.A. (Buddhist) course. The petitioner thereafter filed an application under RTI so as to know the exact status of his admission and through the reply sent by the respondent under the RTI, the petitioner came to know that his admission was cancelled because he did not secure the mandatory 45% marks in his graduation for taking admission in the said course. Assailing the reply and the decision of the respondent university, counsel for the petitioner submits that as per clause 23 of the prospectus issued by the Department for the said course he was entitled to the weightage of 5% marks, being a holder of certificate in Sanskrit and with the said weightage of 5% marks the petitioner becomes eligible to get admission in the said M.A. (Buddhist) course. Counsel also submits that the said certificate in Sanskrit was submitted by the petitioner at the time the petitioner sought admission in the said course and in fact the respondent had taken into consideration the said certificate and thereafter only had allowed the petitioner to

appear in the exams for the 1st semester. Counsel thus urges that the decision now taken by the respondent declaring the petitioner ineligible for the said course is arbitrary and illegal.

3. Refuting the aforesaid submissions of the counsel for the petitioner, Mr. Rupal counsel for the respondent submits that the weightage of 5% marks under clause 23 of the prospectus could be given only if the petitioner had done his certificate course in Sanskrit equivalent to the other examination as referred to in clause 23 of the said prospectus. The contention of the counsel for the respondent is that the petitioner has merely done a one month certificate course of Sanskrit which cannot be treated as equivalent to the certificate courses in various other subjects as referred to in clause 23 of the prospectus. Counsel further submits that all these certificates are scrutinized by the Equivalence Committee of the respondent and in the present case also the Equivalence Committee found that the said certificate of the petitioner in Sanskrit course is not equivalent to the certificate courses as prescribed in clause 23 of the prospectus. Counsel further submits that as per clause 8 of the prospectus it is the sole responsibility of the candidate to prove

his/her eligibility for taking up the course. Counsel further submits that all admissions are subject to verification of the original certificates/documents issued by the competent authority. Counsel further submits that under clause 9 of the prospectus, if at any stage the applicant is found to be ineligible then such an admission can be cancelled and thus no fault can be found with the said decision taken by the respondent. In support of his arguments counsel for the respondent has placed reliance on the judgment of the Apex Court in ***Guru Nanak Dev University Vs. Sanjay Kumar Kotwal & Anr. 2009 (1) SCC 610***. Counsel has also placed reliance on Statute 8 Clause 9 of the Statutes of the University of Delhi.

4. I have heard learned counsel for the parties and gone through the records.

5. Indisputably, the petitioner secured 42.58% in graduation and therefore, he was not entitled for the admission in the said course of M.A.(Buddhist) based on the said marks. However, under clause 23 of the prospectus the provision of weightage of 5% marks has been made, which reads as under:

“23. Weightage of 5% marks will be given to those candidates who possess Certificate in Pali/Tibetan Language and Literature of this Department/Certificate in Chinese or any other equivalent examination; Certificate in Archaeology/Certificate in Sanskrit and Qualify under Category.”

6. The petitioner in the present case claims weightage of 5% marks based on the certificate of one month course in Sanskrit from “Vasudev Sanskrit Prachar Samiti” situated in Abhay Kutir, Sheetalmorg, Villasi Town B, Deoghar, Jharkand. The said certificate was not found equivalent to various other courses as referred to in the said clause by the Equivalence Committee of the University. The Apex Court in the judgment of ***Guru Nank Dev University (Supra)*** has taken a view that the courts will not interfere with the policy issue relating to the academic matters. Relevant para of the said judgment is referred as under:

"Equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. The first respondent has not been able to produce any document to show that appellant university has recognized the M.A. English (OUS) of Annamalai University through distance education as equivalent to M.A. of appellant university. Thus it has to be held that first respondent does not fulfil the eligibility criterion of the appellant university for admission to three year law course."

7. In the present case also it was the Equivalence Committee of the University who took a decision that the certificate as possessed by the petitioner in Sanskrit language was not equivalent to the one as prescribed by the university. Perusal of the photo copy of the said certificate which is placed on record by the petitioner clearly shows that he had attended some Sanskrit "Shivar" for a period of one month. The said certificate was not found to be one as envisaged under clause 23 of the said prospectus, therefore, no fault can be found with the decision taken by the Equivalence Committee of the respondent university. The equivalence is a technical matter and unless the decision of the Equivalence Committee is found to be totally irrational and perverse, the same cannot be interfered by this court while exercising writ jurisdiction under Article 226 of the Constitution of India. Although, it would have been more appropriate if the respondent university would have taken care to take steps to inform the petitioner at the very beginning as unnecessarily the petitioner has to suffer and his academic year would now go waste at this belated stage, yet, at the same time the petitioner was well aware of the fact that he was to fulfill the

eligibility criteria to secure admission in the said course. Under clause 9 of the prospectus, admission to any course of the Department can be cancelled by the respondent university if at any stage the candidate is found ineligible for his admission in the said course. The same reads as under:

“9. If an applicant is found to be ineligible at any stage even after admission to any course of this Department, his/her admission will stand cancelled.”

8. Ineligibility of the candidate certainly disentitles him/her to secure admission in a particular course and in the present case the petitioner was clearly ineligible to get admission in the said course as he was not entitled for the weightage of 5% marks for the certificate course in Sanskrit which he had undertaken just for a period of one month and which certificate was not found to be one as envisaged under clause 23 of the prospectus by the Equivalence Committee.

9. Hence in the light of the above discussion, I find no merit in the present petition and the same is hereby dismissed.

May 04, 2010
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KAILASH GAMBHIR, J.