

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.10.2015

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THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P.No.29595 of 2015

and

M.P.No.1 of 2015

S.R.Deepak ... Petitioner

Vs -

The Tamil Nadu Dr.Ambedkar Law University,
Represented by the Chairman,
Law Admission 2015-2016,
Poompozil No.5, Dr.D.G.S.Dinakaran Salai,
Chennai-600 028. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, directing the respondent to enable the petitioner to join Government Law College at Chengalput and continue his course on the basis of the counseling on 13.09.2015.

For Petitioner : Mr.R.Singaravelan
for Ms.M.Srividhya

For Respondent : Mr.M.Nallathambi

O R D E R

Heard the learned counsel for the petitioner as well as the learned counsel for the first respondent.

2. The petitioner is one of the candidate who took part in the selection process in the three year L.L.B. course for the Academic Year 2015-2016. The petitioner, though selected, was not admitted on the ground that he was not eligible in view of the explanation to Rule 5 of The Bar Council of India Rules. Therefore, the petitioner has come forward to file this Writ Petition seeking issuance of the direction to the respondent to enable the petitioner to join Government Law College at Chengalput and continue his course on the basis of the counselling held on 13.09.2015.

3. Mr.R.Singaravelan, learned counsel for the petitioner submitted that Rule 5(a) of The Bar Council of India Rules deals with the three year Law Degree course. Thus, the proviso cannot be made applicable and it has to be made applicable to the Rule 5(b) alone. The explanation to Rule 5 of the proviso being contrary to it has to be read down to mean that the candidate who has obtained +2, (Higher Secondary) pass after prosecuting the studies in Distance or Correspondence method shall be considered as eligible for admission in the integrated Five year course or three years L.L.B.Course, as the case may be. Otherwise, the explanation would be contrary to the proviso. The petitioner has completed the eighth standard and thereafter completed the tenth standard in the open university system. Admittedly, he has completed +2 in the regular course as well as the degree. Thus both on merit and on the question of estoppel, he cannot be denied seat.

4. The learned counsel for the first respondent, based on the counter as well as the order passed on 23.01.2015 in W.P.No.3513 of 2014 has submitted that the petitioner has not satisfied the prescribed qualification. Admittedly, he has not completed the tenth standard in the regular stream and having not qualified as per norms, he was not duly admitted. He did not produce these material facts earlier. That is the reason why he is called for counselling but was not admitted for the three year Law Course. He has further submitted that the mere issuance of the call letter would not amount to admission. Therefore, no interference is required.

5. Considering the submissions made on either side, it is apposite to reproduce Rule 5 as exists today.

"5.Eligibility for admission.- (a) Three Year Law Degree Course: An applicant who has graduated in any discipline of knowledge from a University established by an Act of Parliament or by a State legislature or an equivalent national institution recognized as a Deemed to be University or foreign University recognized as equivalent to the status of an Indian University by an authority competent to declare equivalence, may apply for a three years' degree program in law leading to conferment of L.L.B. degree on successful completion of the regular program conducted by a University whose degree in law is recognized by the Bar Council of India for the purpose of enrolment.

(b) Integrated Degree Program: An applicant who has successfully completed Senior Secondary School course ('+2') or equivalent (such as 11+1, 'A' level in Senior School Leaving certificate course) from a recognized University of India or outside or from a Senior Secondary Board or equivalent, constituted or recognized by the Union or by a State Government or from any equivalent institution from a foreign country recognized by the government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the program of the Centres of Legal Education to obtain the integrated degree in law with a degree in any other subject as the first degree from the University whose such a degree in law is recognized by the Bar Council of India for the purpose of enrolment.

Provided that applicants who have obtained +2 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for admission in the Integrated Five Years course or three years' L.L.B. course, as the case may be.

Explanation.- The applicants who have obtained 10+2 or graduation/post graduation through open Universities system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law courses.

6. Proviso to Rule 5 deals with integrated five year course as well as the three year L.L.B. Course as the case may be. Thus, the submission made by the learned counsel for the petitioner that the proviso has to be made applicable to the Rule 5(b) alone cannot be accepted. Tenth, +2 is the basic qualification both for three year course as well as the integrated degree programme. Now, this proviso has been explained through the explanation. Thus, the explanation clearly explains the proviso. Therefore, there is no apparent conflict as suggested by the learned counsel for the petitioner. On the contrary in order to make the proviso very clear, the explanation has come into being. It is meant to clear any possibility of doubt with respect to the understanding of the proviso. The explanation clearly

speaks about the qualification of the 10th standard from open university system. Thus the students, on completion of the tenth standard through the open university system without any basic qualification for prosecuting such studies are not eligible for the law course. Therefore, it is very clear that where standard adopted from the Open University system is not a bar it has to confine to the basic qualification viz., Studied upto 10th standard otherwise anybody who has not completed the tenth standard would become automatically eligible for admission in the law course which is not intention as seen from the explanation. The petitioner does not have a vested right to claim under Rule 5(b). Merely because a call letter is issued, he cannot claim any right for admission. Similarly, there is no difference between the candidate completed upto eighth standard and anything lesser as the position remains the same. There is no estoppel against the statute. Similarly, there is no scope of reading down a provision made so when there is an explanation available.

7. Accordingly this Court is not inclined to allow this Writ Petition as the petitioner does not satisfy the qualification prescribed under Rule 5 of the Bar Council of India Rules . There is also no question of violation of Article 21 A since this Court has dealt with the qualification for the law course alone. Hence, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub-Assistant Registrar

To

The Chaيمان,
The Tamil Nadu Dr.Ambedkar Law University,
Law Admission 2015-2016,
Poompozil No.5, Dr.D.G.S.Dinakaran Salai,
Chennai-600 028.

+1 C.C. to MR.M.Nallathambi Advocate in Sr.No.569836

+1 C.C. to M/S.M.Srividhya, Advocate in Sr.No.56903

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Sd : 16/10/2015