

HON'BLE SRI JUSTICE R.KANTHA RAO

W.P.No.1706 of 2015

ORDER

This writ petition is filed seeking to declare the action of the respondents in cancelling the admission of the petitioner in the course of Master of Fishery Science (MFSc.,) (Aquatic Environment Management) vide impugned Memo dated 20.01.2015, as arbitrary and illegal.

The petitioner passed Bachelor of Fishery Science (BFSc.,) from Sri Venkateswara Veterinary University, Tirupati. He studied during the year 2009-2013. He belongs to BC-B category. While so, Tamilnadu Fisheries University, issued notification in the month of August, 2014 for admission into MFSc., (Aqua Culture). The petitioner has attended the entrance test conducted in the month of September, 2014 and got admission at Fisheries College and Research Institute, Tamilnadu State. Classes were commenced from 19.09.2014 for the first year. In the meanwhile, the 1st respondent-Sri Venkateswara Veterinary University issued a notification in the month of December, 2014 for admission into MFSc., Course for the academic year 2014-15. The petitioner applied for MFSc (Aquatic Environment Management) and the 1st respondent conducted entrance test on 16.12.2014. But the same was cancelled on the ground that 20 questions were repeated in the question paper. Thereafter, again on 30.12.2014, re-examination was conducted and results were declared on the same day and the petitioner secured 64.42 marks and got 5th rank among all the 16 candidates and secured 1st rank in BC-B category. Based on the rank, the petitioner was called for the counselling on 31.12.2014 at Dr.YSR Bhavan, Tirupati. The

petitioner attended the counselling and after verification of the certificates, he was provisionally selected for admission into MFSc., and he was allotted the College of Fishery Science, Mutukuru, SPSR Nellore District. The petitioner was directed to pay the fees and join in the course on or before 2.1.2015 or 3.1.2015. Accordingly, the petitioner reported at Mutukuru and paid the prescribed fee and joined in the said college and the classes were commenced from 3.1.2015 and the petitioner attended the classes. While the petitioner was attending the classes, one D.Venkatesh, who is next merit candidate in the list of BC-B candidates, made a complaint against the petitioner stating that the petitioner also registered his name in P.G. course in Tamilnadu. Later, the Tamilnadu Fisheries University also addressed a letter dated 12.1.2015 stating that they have given all certificates including TC inadvertently to the petitioner and requested to return back all the original certificates to cancel the admission of the petitioner in P.G. Thereafter, the 1st respondent-University constituted a committee to make enquiry as to the admission of the petitioner into the PG course without cancelling the admission in Tamilnadu State and joining the first respondent University. The petitioner participated in the enquiry which was held on 19.1.2015. In the enquiry, the petitioner has stated that the entrance test was conducted on 30.12.2014 and results were published on the same day and on the very next day, he was directed to attend counselling on 31.12.2014 and accordingly, he attended for counseling and produced the relevant certificates which were given by the Tamilnadu Fisheries University including TC of BFSc., but was unable to produce the TC of Tamilnadu Fisheries University by cancelling his earlier admission, since there was no breathing time. While so, the first respondent issued impugned Memo dated 20.01.2015 wherein he cancelled the PG admission of the petitioner into MFSc (AEM) on the ground that the petitioner deposited old TC of BFSc., issued by the College of Fisheries Science, Sri Venkateswara Veterinary University, Tirupati, instead of TC from the institution where the petitioner last

studied i.e., Fisheries College Research Institute, Tuticorin, Tamilnadu. According to the respondents, it seems, the admission of the petitioner is not in accordance with the regulations and guidelines given in the MFSc., prospectus of admission relating to 2014-15 and therefore, the admission of the petitioner was cancelled.

Learned counsel appearing for the petitioner submits that the petitioner made a representation to the first respondent-University on 19.1.2015 stating that due to paucity of time, he was unable to produce the TC from the 1st respondent University and requested the committee to afford him an opportunity, but the committee deliberately refused his request.

Under these circumstances, the petitioner filed the present writ petition to declare the action of the respondents in cancelling the admission into MFSc Course without affording him an opportunity, as arbitrary and illegal and contrary to the rules and consequently to set aside the impugned proceedings dated 20.1.2015 issued by the first respondent-University.

Counter-affidavit has been filed on behalf of the first respondent, wherein it is contended that in the application form submitted by the petitioner, under item No.15, there is a column, which reads as under:

“Are you presently prosecuting MFSc if so furnish details, for which the petitioner categorically stated “No”.

In summary application under column 10 (iv) “Post graduated or prosecuting Post Graduate details”, the petitioner mentioned under this column “No”.

Therefore, according to the respondents, the petitioner willfully suppressed the information of his P.G. admission in another University. Since the petitioner submitted all the certificates in original including the Transfer Certificate, he was given admission at the respective college. The petitioner had at no

point of time disclosed the information about his P.G. admission into another University till he got admitted into SVVU. The petitioner has every chance to represent the authorities to allow him time to produce the certificates from where he was studying. But he never either orally or in writing sought time for producing the originals. It is further stated that though the time limit is short, in deserving cases, the University would certainly grant time to the candidates for production of original certificates. In the instant case, the petitioner never made any such request with the University and on the other hand by suppressing that he was already prosecuting the PG course at Tuticorin, Tamilnadu, got the admission in the 1st respondent-University. It is also stated that after attending the college for four days, the petitioner made a representation dated 7.1.2015 to the first respondent University stating that he wanted all the original certificates including old TC submitted by him in order to submit them at Tamilnadu Fisheries University to cancel his P.G. seat. In view of the same, a Committee was constituted and the Committee after considering the entire matter and the admission rules, made recommendation to cancel the admission of the petitioner. Thereafter, the SVVU has issued orders treating the registration made by the petitioner as null and void by duly cancelling his MFSc admission *vide* Memo dated 20.01.2015 and also directed to return all original certificates of the petitioner to FCRI, Tuticorin. According to the first respondent-University, the petitioner has violated the admission rules of both the Universities by suppressing the true facts and though there is ample opportunity to the petitioner to request the University to allow him time to get cancelled his admission in FCRI, Tuticorin, he never made such a request and now is trying to blame the University. As per the admission rules, if any candidate secures the admission by giving false or incorrect information, the University is at liberty to cancel the admission besides initiating penal action. Therefore, there is no illegality in cancelling the admission of the petitioner. It is further stated in the counter-affidavit that as per Clause 7 of P.G. Notification, the candidate

should produce TC from the College/Institution where the candidate last studied. The petitioner got admission into P.G. Course at FCRI, Tuticorin in September, 2014, therefore, the petitioner is required to submit TC obtained from FCRI, Tuticorin, but not TC issued by SVVU for his graduation. According to the first respondent, the petitioner cannot be compared to one D.Santosh Kumar, as he has clearly mentioned about his admission at FCRI, Tuticorin and he made representation to allow time to submit certificates from FCRI, Tuticorin and he never produced his old TC as was done by the petitioner.

In the reply affidavit filed by the petitioner, it is stated that the petitioner has joined the P.G. course of MFSc., in different specialty of Aqua Culture in Tamilnadu State. In the meantime, within 3 months, the 1st respondent issued notification for P.G. Course of MFSc., by which time, the petitioner did not even complete three months course at Tamilnadu University. More over, he received all the relevant certificates including TC. Thus, the version of the petitioner seems to be that he was under the impression that he was not prosecuting the P.G. course in Tamilnadu University and therefore, he unknowingly mentioned “No” at the relevant column. But, there was no intention on his part to suppress the information. It is further stated that *vide* proceedings dated 30.12.2014, the petitioner was provisionally selected for MFSc in SVV University and he produced all relevant certificates including original TC of BFSc from SVV University. At that time, the petitioner clearly brought to the notice of the concerned Dean and requested some time for cancellation of PG admission in Tamilnadu Fisheries University since the petitioner earlier worked in the same University under the same Dean and when he got PG seat in Tamilnadu he gave resignation and joined in the PG course on 19.09.2014. Thus, the version of the writ petitioner appears to be that as there was no breathing time to join the present PG course in the first respondent-University on 2.1.2015 as only one day time was granted for joining in the PG

course on the ground that there was a delay in conducting re-entrance examination by the University. It is further stated that the petitioner secured first rank in the entrance examination among the BC-B candidates and his selection is purely based on the merit. The petitioner submitted a representation to the FCRI, Tuticorin, Tamilnadu and requested to cancel the admission in P.G.Course as he obtained P.G in SVV University and provide TC from that University. Based on the said letter, the FCRI, Tuticorin, addressed a letter to the 1st respondent University on 12.1.2015 and consequently, the impugned order dated 20.01.2015 was passed after enquiry. The only reason for cancellation of the petitioner's admission is that he produced TC from the SVV University instead of TC from the Institute last studied. The petitioner is ready to produce the TC from the Institute of FCRI, Tuticorin, Tamilnadu, but the 1st respondent University had not returned the TC of BFSc, which was submitted at the time of admission. Since the Tamilnadu University returned all the certificates including old TC of BFSc, which were submitted to the 1st respondent, there is no suppression of the fact to the University. The petitioner is entitled to continue in MFSc., (AEM) course as per the rank obtained by him in the entrance examination.

I have heard the learned counsel appearing for the petitioner and learned Standing Counsel appearing for the first respondent-University.

Sub Clause (iii) & (iv) of Clause 12 of the prospectus of Sri Venkateswara Veterinary University reads as under:

(iii) (a) PG students should not register for any other degree/diploma programme concurrently on regular or part-time basis either in this University or in any other University/Educational Institution.

(b) Those who were withdrawn from MVSc/MFSc

courses in SVVU for not maintaining minimum OGPA and again applying during subsequent years, should appear for the entrance test and seek admission afresh.

(c) Those who joined MVSc/MFSc courses in SVVU but could not complete the requirement and applying again shall appear for entrance test. However, stipend if any paid earlier shall be recovered in full.

(iv) All admissions shall be deemed as provisional and subject to further scrutiny. The admission shall be liable for cancellation without notice at any stage during the study of the students if it is found that his/her admission is in any way repugnant to the rules/regulations or invalid by reason of incorrect or false information furnished by the applicants or their parents/guardians at the time of admission. Any cancellation of admission shall not exclude penal action under the relevant criminal law.”

A perusal of the rules and regulations of the University, relating to the admission of the students into PG course show that the rule do not totally debar a candidate from taking admission in the said course even though he was prosecuting the same course in another University. On the relevant date, the petitioner was prosecuting PG course in another university at a different place. There is no prohibition for submitting an application pursuant to the notification issued by the first respondent-University for admission into PG Course. The petitioner appeared for the entrance examination and secured 5th rank in the merit list and 1st rank in the BC-B category. It is not at all the case of the first respondent-University that the certificates produced by the petitioner are false or created. The ground on which his admission was cancelled seems to be that he produced TC from the SVV University instead of TC from the institution where he last studied. Another important factor is that a candidate by name D.Venkatesh, who was prosecuting PG course in the Tamilnadu University, was given admission in the PG course in the first respondent-University, though he has clearly mentioned in the application form that he was prosecuting PG Course in Tamilnadu University. But, in the

case of the petitioner, it is said that he has suppressed the said fact.

The question, therefore would be, when there is no prohibition for admitting a student, who has been studying equivalent course in some other University to admit in PG course in the first respondent-University, whether the admission of the petitioner, who secured first rank in BC-B category is liable to be cancelled on the sole ground that he did not disclose the fact that he was studying PG course in some other University.

Having regard to the facts and circumstances brought to the notice of this Court by the petitioner, this Court is of the view that there is a mistake on the part of the petitioner in not mentioning the fact that he is prosecuting PG in another university. In view of the fact that the petitioner was doing a job in SVV University and resigned the said job and joined the PG course in Tamilnadu University, it cannot be said that he is guilty of suppression of any material facts. Therefore, the action of the 1st respondent-University in canceling the PG seat of the petitioner, in the opinion of this Court, is not sustainable in law and the relief prayed for by the petitioner can be granted.

Consequently, the impugned order dated 20.01.2015 is set aside and the writ petition is allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE R.KANTHA RAO

24th February, 2015

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