

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT APEAL No. 433 OF 2015

03-06-2015

Between:

Sri Venkateswara Veterinary University, rep., by its Registrar,

Dr.Y.S.R. Bhavan, Tirupati, Chittoor

... Appellant

And

Palika Sri Dattatreya and another

... Respondents

-
-
-
-
-

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

-

WRIT APEAL No. 433 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order dated 24-02-2015 passed in Writ Petition No.1706 of 2015, whereby the writ petition has been finally allowed and the order dated 20-01-2015, impugned in the writ petition, has been set aside. By this order (dated 20-01-2015), the 1st respondent's admission (petitioner in the writ petition) was cancelled for the Course of Master of Fishery Schience (MFSc.,) (Aquatic Environment Management) (for short, 'the Course'). The appellant – University cancelled the admission of the 1st respondent solely on the ground that he, while seeking admission in their University for the Course, did not disclose that he was already admitted for the very same course in Tamilnadu Fisheries University at Thoothukkudi in the State of Tamilnadu in September, 2014. It appears, applications for the very same course were invited by the appellant – University and the 1st respondent being local candidate made application for admission to the said course in response to the advertisement and on merits, he was admitted by the appellant.

In this backdrop, our attention was invited by learned counsel appearing for the appellant to Memo No.9755/PG/2015, dated 31-12-2014 and submitted that the 1st respondent has committed breach of the conditions for granting provisional admission to him and, therefore, they were justified in cancelling the admission. The relevant paragraph of the memo dated 31-12-2014 reads thus:

“The admission is provisional subject to further scrutiny. In case any discrepancies is found in the computation of marks, or during the further scrutiny while allocation or during verification of original certificates or applications, the provisional selection is liable for cancellation. The admission will also be cancelled at any stage during the period of study, if it is found that the selection/admission secured is contrary to rules or invalid by reason of incorrect or false information furnished by the appellant or his/her parent/guardian. Any cancellation of admission shall

not exclude penal action, under the relevant category. Further the admission under different social categories is subject to clearance by the respective authority.”

We have carefully perused the above paragraph and so also the order challenged in the appeal. It is clear that the situation/eventuality that has fallen for our consideration is not covered by the aforesaid paragraph in the memo dated 31-12-2014. It is not the case of the appellant that the admission of the 1st respondent was contrary to any Rule. In our opinion, learned single Judge while deciding the writ petition has taken all the aspects into consideration in proper perspective and allowed the writ petition. The relevant observations in the order, impugned in the present appeal, read thus:

“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.”

We do find ourselves in agreement with the observations made by the learned single Judge. Merely because the 1st respondent did not disclose, while seeking admission in the appellant’s University for the said Course about his admission in Tamilnadu Fisheries University, his admission cannot be cancelled, if he is ready to get his admission in Tamilnadu Fisheries University cancelled. As a matter of fact, learned counsel for the 1st respondent submitted that the 1st respondent has taken all the steps to get his admission cancelled, but merely because original documents were not produced by him, the Tamilnadu Fisheries University has not cancelled his admission. All original documents are with the appellant – University. In this backdrop, learned counsel, on behalf of the 1st respondent, undertakes to get the admission of the 1st respondent cancelled in Tamilnadu Fisheries University and he further submits that in any case, the 1st respondent shall prosecute the Course only in the appellant – University.

In view thereof and having considered the reasons recorded by the learned single Judge, we do not find any reason to interfere with the order. Hence, the appeal is dismissed.

At this stage, as requested by learned counsel for the 1st respondent, the Dean of the appellant – University is directed to furnish photocopies of all original documents duly attested by him to the 1st respondent to comply all the formalities for getting his admission cancelled from Tamilnadu Fisheries University. We hope and trust that the appellant – University shall furnish a set of documents, as aforementioned, within a period of ten days from today.

With these observations, the writ appeal is dismissed.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

03-06-2015

ks