

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2017

CORAM

THE HONOURABLE MR.JUSTICE NOOTY. RAMAMOHANA RAO

and

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.A.No.61 of 2017
and C.M.P.No.1123 of 2017

Mehala Koneru (Minor)
through her Natural Guardian
Swapna Koneru

...Appellant/Petitioner

Vs.

1. Tamil Nadu Agricultural University
represented by its Registrar,
Coimbatore - 641 003.
 2. The Coordinator,
Tamil Nadu Agricultural University UG Admission 2016,
Coimbatore - 641 003.
 3. The Dean (Agriculture) & Chairman (Admissions),
Tamil Nadu Agricultural University,
Coimbatore - 641 003.
- ...Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 18.11.2016 made in W.P.No.35105 of 2016.

For Appellant : Mrs.Hema Sampath, Senior Counsel
for M/s.R.Meenal

For Respondents: Mr.Abdul Saleem

WP Prayer: filed under Article 226 of Constitution of India
to issue a Writ order or Direction in the nature of writ of
Mandamus of any appropriate writ order or direction directing
the respondents to grant a seat in the course B.Tech
(Horticulture) and transfer the stream of petitioner from B.Tech
(AIT) to B.Tech (Horticulture) for the present academic year
itself(ie) 2016-2017.

J U D G M E N T

(Judgment of the Court was made by NOOTY.RAMAMOHANA RAO,J.)

This Letters Patent Appeal is preferred by the Writ Petitioner, whose Writ Petition in W.P.No.35105 of 2016 has been dismissed by the learned Single Judge on 18.11.2016.

2.The Writ Petitioner hails from the neighbouring State of Andhra Pradesh. She pursued her +2 course under the Central Board of Secondary Education system. She has studied Physics, Chemistry, Biology with Computer Science as optional subject. She responded to the Notification issued by the Tamil Nadu Agricultural University for Under Graduate admissions for the academic session 2016-17.

3.It is the claim of the Writ Petitioner that she was interested in pursuing B.Tech (Horticulture) course. But to her dismay, she was not found eligible to solicit admission to that course. Consequently, she sought for and as well secured admission to B.Tech (Agricultural Information Technology). Since she realized that there are still few more seats available and left unfilled in B.Tech (Horticulture) course, she submitted a representation before the Authorities soliciting, sliding from B.Tech (Agricultural Information Technology) to B.Tech (Horticulture) course. Since the said representation has not been favourably disposed of, she instituted the Writ Petition. Since the Writ Petition came to be dismissed, the present appeal is preferred.

4.Heard Mrs.Hema Sampath, learned Senior Counsel for the Writ Petitioner/appellant and Mr.Abdul Saleem, learned Standing Counsel for the University.

5.The learned Senior Counsel would urge that irrational criteria are fixed by the respondent University for regulating the process of admission to various Under Graduate courses offered by it. The learned Senior Counsel would demonstrate that B.Tech (Horticulture) course is a different kind of Technological course and perhaps, the student at 10 +2 stage, may not have been fully conversant with the nuances or the significance of the said Technological course. As new Technologies are emerging and the academic courses are getting standardized, increasing specialized study of select subjects is gaining importance. New branches of Technological courses have made great departure from the conventional engineering subjects, as they are studied three decades back. New areas of Technology, which are developed elsewhere, are also catching the imagination

of the Indian Universities and increasingly, such courses are offered for study and the Indian students are raising to the occasion and are performing reasonably well in these new Technological courses. Therefore, emphasis is sought to be laid by the learned Senior Counsel that if a student has studied the basic subjects, which are so essentially needed for securing admission, when seats are still available, at least on such occasions, the claims of such candidates for admission should be considered, instead of allowing the seats to go abegging.

6.The learned Senior Counsel submits that an implied promise has also been held out by the University, when it has published its admission Brochure for the academic session 2014-15 and 2015-16 for B.Tech (Horticulture) course. Deriving inspiration on the basis of the concept of legitimate expectation, the learned Senior Counsel dealt deep into the said principle of the matter and suggested that this Court should invoke the said concept for the purpose of securing relief of admission of the Writ Petitioner to B.Tech (Horticulture) course, in pursuing which course, the heart of the Writ Petitioner/appellant lies.

7.At the very outset, we are conscious that there is no dearth of admirable talent in this Country. The increasing number of youngsters, who are exploring every possible opportunity, which is available to excel in various varieties of new fields, hitherto not ventured into, is really a heart warming scenario. They are putting in lot of efforts, fine tuning their skills and they are achieving the standards of excellence in real quick time in fields, which inspire and impress them. They burn the midnight oil with a single minded dedication and dedicate themselves whole-time to achieve the set goals. So long as such men and women keep getting multiplied by thousands, we can draw comfort that this Country will come out with flying colours in all fields of human enterprise.

8.In the instant case, we have noticed that the Writ Petitioner has studied Physics, Chemistry, Biology and Computer Science as the optional subject at the Higher Secondary level under the CBSE pattern. The respondent University, which offered admission to both B.Tech (Horticulture) and B.Tech (Agricultural Information Technology) courses, has prescribed the eligibility criteria for admission to various Under Graduate programmes in Paragraph-II of its Brochure. Insofar as the B.Tech (Horticulture) course is concerned, the eligibility criteria have been grouped as follows:

Group I : Mathematics, Physics, Chemistry and Biology
or

Group II : Physics, Chemistry, Biology with a fourth
(elective) subject viz., BioTechnology, Microbiology,

Biochemistry and Home Science.

or

Group II (A) : Physics, Chemistry, Botany and Zoology

whereas for B.Tech (Agricultural Information Technology) course, the eligibility criteria are:

Group III : Mathematics, Physics, Chemistry and Biology

or

Group II : Physics, Chemistry, Biology and Computer Science

9.The solitary reason why the Writ Petitioner was rendered ineligible by the respondent University for seeking admission to B.Tech (Horticulture) course was that though she has studied Physics, Chemistry and Biology subjects at 10+2 course, but however, the fourth (elective) subject was not one of BioTechnology, Microbiology, Biochemistry and Home Science and instead, it was Computer Science and that makes the difference, according to the University, in rendering the Writ Petitioner eligible to secure B.Tech (Agricultural Information Technology), while simultaneously rendering her ineligible to secure admission to B.Tech (Horticulture) course.

10.On a plain reading of the Brochure, there is no difficulty to hold that the Writ Petitioner is not eligible to seek admission to B.Tech (Horticulture) course, but she is eligible only to seek admission to B.Tech (Agricultural Information Technology) course for the reason that the fourth (elective) subject studied by her in +2 was Computer Science, but not anyone of the four subjects referred to supra by us, as found mentioned in the prospectus.

11.In contrast to what has been mentioned supra, the same respondent University, when it has announced admission to Under Graduate admissions for 2014-15, declared the following as the qualifying criteria for admission:

For B.Tech (Horticulture) course, the eligibility criteria are organized into 3 groups:

Group I : Mathematics, Physics, Chemistry and Biology

Group II : Physics, Chemistry, Biology with a fourth (elective) subject of any relevant science subject having marks (not grades) (emphasis is mine)

Group II (A) : Physics, Chemistry, Botany and Zoology

12.According to Mrs.Hema Sampath, the learned Senior

Counsel, it is this prospectus for the academic session 2014-15 which has induced the Writ Petitioner to take the fourth (elective) subject of Computer Science, inasmuch as it is a 'relevant science subject' and hence lead to a legitimate expectation.

13.The contrast between the specification of the eligibility criteria for the academic session 2014-15 and 2016-17 taken out by the respondent University is this, while it used the expression "relevant science subject" for the session 2014-15 but when it came to 2016-17, it was specified that the fourth (elective) subject should be either BioTechnology, Microbiology, Biochemistry or Home Science. Therefore, the entire question now centers around as to whether the norms specified in general terms used in the Brochure for the admission process in 2014-15, would amount to making a promise, which can be considered to have generated a legitimate expectation in the minds of the students, which can be enforced is required to be answered by us.

14.The learned Senior Counsel places reliance upon the judgment rendered in Bannari Amman Sugars Ltd., Vs. Commercial Tax Officer and others reported in (2005) 1 Supreme Court Cases 625, wherein the Hon'ble Supreme Court had extensively dealt with the concept of estoppel as a rule of equity. The learned Senior Counsel has placed strong reliance upon this judgment and in particular, we need to notice the following passage spelt out in paragraph - 19 of the said judgment:

"...

19.In order to invoke the doctrine of promissory estoppel clear, sound and positive foundation must be laid in the petition itself by the party invoking the doctrine and bald expressions without any supporting material to the effect that the doctrine is attracted because the party invoking the doctrine has altered its position relying on the assurance of the Government would not be sufficient to press into aid the doctrine. The Courts are bound to consider all aspects including the results sought to be achieved and the public good at large, because while considering the applicability of the doctrine, the Courts have to do equity and the fundamental principles of equity must for ever be present in the mind of the Court."

15.The learned Senior Counsel has also placed reliance upon the judgment of the Hon'ble Supreme Court in Union of India and others Vs. Hindustan Development Corporation and others reported in (1993) 3 Supreme Court Cases 499, wherein the Hon'ble Supreme Court noted as follows:

"...

It may be indicated here that the doctrine of 'legitimate expectation imposes in essence a duty on public authority to act fairly by taking into consideration all relevant factors relating to such 'legitimate expectation'. Within the conspectus of fair dealing in case of 'legitimate expectation', the reasonable opportunities to make representation by the parties likely to be affected by any change of consistent passed policy, come in. We have not been shown any compelling reasons taken into consideration by the Central Government to make a departure from the existing policy of allotment with reference to seniority in Registration by introducing a new guideline.

...

23. In Halsbury's Laws of England, Fourth Edition, Volume I(I) 151 a passage explaining the scope of "legitimate expectations" runs thus:

"81. Legitimate expectations. - A person may have a legitimate expectation of being treated in a certain way by an administrative authority even though he has no legal right in private law to receive such treatment. The expectation may arise either from a representation or promise made by the authority, including an implied representation, or from consistent past practice.

The existence of a legitimate expectation may have a number of different consequences'; it may give locus standi to seek leave to apply for judicial review; it may mean that the authority ought not to act so as to defeat the expectation without some overriding reason of public policy to justify its doing so; or it may mean that, if the authority proposes to defeat a person's legitimate expectations, it must afford him an opportunity to make representation on the matter. The courts also distinguish, for example in licensing cases, between original applications, applications to renew and revocations; a party who has been granted a licence may have legitimate expectation that it will be renewed unless there is some good reason not to do so, and may therefore be entitled to greater procedural protection than a mere applicant for a grant." (emphasis supplied)"

16.As was very clear from the above principles, a promise must be very clear, unambiguous and intended to be acted upon by the other side. An information let out for the student community, at large, by specifying that the fourth (elective) subject at the 10 +2 level be in 'the relevant science subject' does not convey anything specific. It merely communicates that apart from studying Physics, Chemistry and Biology, the student must also pursue the fourth (elective) subject relating to one science subject or the other, which might fetch them admission to B.Tech (Horticulture) course. That was because the CBSE offers a host of courses comprising of various combinations of subjects. For instance, apart from Physics, Chemistry, Biology, a student can also pursue Nursing as a fourth (elective) subject or Nutrition and Dietetics or Siddha as another subject of study. Therefore, it is very clear that the Brochure for the admissions for 2014-15 does not amount to making any promise muchless a firm one capable of inducing the preceptor to change his position to student community that they can choose any subject of science, apart from Physics, Chemistry, Biology, and still expect that they will be granted admission to B.Tech (Horticulture) course. At best, the imprecise expression "relevant science subject" used in the Brochure could have generated the some kind of hope in the minds of the students concerned. Obviously, realising the usage of the imprecise nature of expressions in the Brochure of 2014-15, the respondent University has taken care to rectify/specify for the year 2016-17 the four subjects one of which should be taken as an elective subject at the +2 stage. Admittedly, the Writ Petitioner having not studied any one of the four subjects as elective subject at +2 stage, she could not have been treated as eligible. This apart, the Courts have little expertise to decipher which subject is a relevant subject of study for pursuing subsequently a particular specialized course. The Courts have basic or at best broad understanding of subjects such as Physics, Chemistry, Zoology, Botany, Economics or Accountancy, etc, but the finer aspects or nuances relating to them are certainly beyond the level of comprehension by the Courts. It is further a self imposed restraint that is uniformly adopted by the Courts to stay away from pure matters concerning academic content of subjects. The field is left open for the expert academic bodies, which have the necessary expertise, knowledge and skill, to decide which course of study is more ideally suited for pursuing the next higher course of study. Unless there is something palpably perverse, the decisions of the academic bodies in any such academic matters is seldom interfered with at all. We are therefore, not in a position to appreciate the contentions canvassed that a legitimate expectation had arisen in the mind of the Writ Petitioner by virtue of the content of the Brochure of the respondent University for academic session 2014-15. It is

only apt to notice the following caution sounded by the Supreme Court in Food Corporation of India Vs. Kamdhenu Cattle Feed Industries [(1993) 1 SCC 71]:

"...

The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirement of due consideration of a Legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule of law. Every legitimate expectation is a relevant factor requiring due consideration in a fair decision making process. Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent."

17. On the other hand, a three-Judge Bench of the Hon'ble Supreme Court in Dolly Chhanda Vs. Chairman, JEE and others reported in (2005) 9 Supreme Court Cases 779 has spelt out the following principle in paragraph - 7:

"....

7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission Brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage, etc, necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement to benefit of reservation. Depending upon the facts of a case,

there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature." (Emphasis is mine)

18. We are therefore of the view that there is no merit in this Writ Appeal. But however, we do not wish to through cold water on the aspirations of young students. The leading Universities in the World are allowing students from varying or divergent academic backgrounds to pursue courses of study which might appear to be diversified subjects. The emphasis supplied is now more on acquisition of knowledge and competence of skill during study of the course itself rather than earlier thereto. Since there are several seats still available in B.Tech (Horticulture) course and if the University considers it possible to allow the Writ Petitioner to slide from B.Tech (Agricultural Information Technology) course to that of B.Tech (Horticulture) course without much difficulty for the student, they may consider and pass appropriate orders on any such requests of sliding. May be the excessive interest laying in the mind of an young person may result in far brighter light to emerge in later years of time. It is, therefore, for the respondent University to take all these factors into account and pass appropriate orders within 30 days from the date of receipt of a copy of this order.

19. With this, the Writ Appeal stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1. The Registrar,
Tamil Nadu Agricultural University
Coimbatore - 641 003.
2. The Coordinator,
Tamil Nadu Agricultural University UG Admission 2016,
Coimbatore - 641 003.

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3. The Dean (Agriculture) & Chairman (Admissions),
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

+1cc to Mr.Meenal, Advocate, S.R.No.6696

PVS (CO)
RS (17/02/2017)

W.A.No.61 of 2017
and C.M.P.No.1123 of 2017



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