

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 22847 of 2007

ORDER:

Heard learned counsel for the petitioners and learned counsel for the respondents.

The case of the petitioner is that he passed SSC Examination in 1980 conducted by the Board of Secondary Education, Andhra Pradesh. He also passed Intermediate (Vocational Course) Examination in Rural Engineering Technician in 1982 conducted by the Board of Intermediate Education, Andhra Pradesh, Hyderabad. He wanted to take admission in Diploma in Pharmacy Course pursuant to the notification, dated 23.08.2004, issued by the Government of Andhra Pradesh, Department of Technical Education. He applied for a seat and got admission in Raghavendra Institution of Pharmaceutical Sciences, Chiyyedu, Anantapur. He passed the said course in first class and he was awarded a certificate in Diploma in Pharmacy by the State Board of Technical Education and Training, Andhra Pradesh, Hyderabad.

When he submitted an application for registration as Pharmacist, an endorsement was made on it on 03.09.2007 stating that Inter Vocational Course in Rural Engineering Technician conducted by the Board of Technical Education, Andhra Pradesh was not approved by the Pharmacy Council of India for admission to Diploma in Pharmacy Course and

accordingly, the application was not entertained. Challenging the same, the present writ petition was filed.

No counter-affidavit is filed by the Government.

Respondent Nos.3 and 4 filed separate counter-affidavits and they are on identical lines. It is stated that the Pharmacy Council of India is a statutory body working under the Pharmacy Act, 1948 (for short 'the Act') and it has got power to prescribe minimum standard of education required for qualifying as a Pharmacist by framing the Education Regulations, 1991 (for short 'the Regulations') and ensure uniform implementation of the educational standards throughout the country. It is further stated that the Regulations were framed under Section 10 of the Act prescribing the number of hours to be covered for theory and practical, mode of examinations, eligibility for appearing in the examinations, minimum marks for passing examination etc. The required period and other conditions for practical training and the syllabus for Diploma in Pharmacy were also prescribed. The required infrastructural facilities by the institutions imparting the course were also prescribed. The Education Regulations thus framed in 1991 are in vogue. Since the basic qualification obtained by the petitioner in Rural Engineering Technician is not one of the courses prescribed as minimum qualification for admission in Diploma in Pharmacy, the petitioner was not eligible for registration as Pharmacist.

In view of the above stand taken by respondent

Nos.3 and 4, the only point that arises for consideration is whether the petitioner is entitled for registration as Pharmacist even after obtaining certificate in Diploma in Pharmacy issued by the State Board of Technical Education and Training, Andhra Pradesh, Hyderabad.

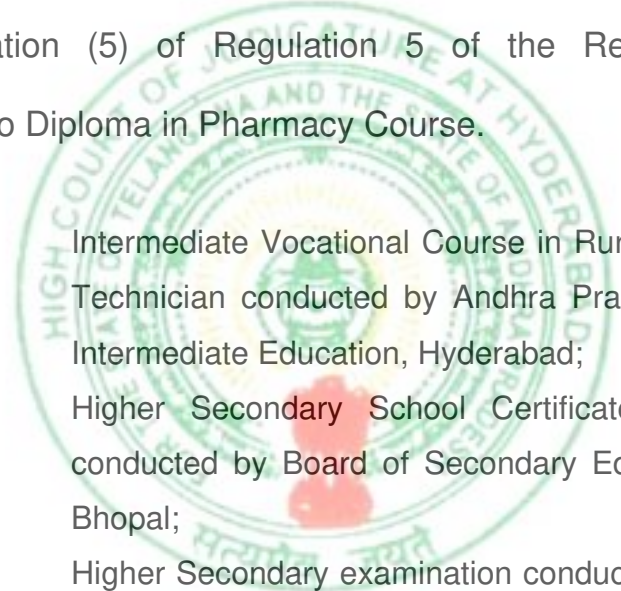
There is no dispute that the petitioner passed Intermediate (Vocational Course) Examination in Rural Engineering Technician. The Government of Andhra Pradesh, Department of Technical Education issued a notification on 23.08.2004 offering seats left unfilled in certain categories to the eligible candidates of other categories followed by open competition and asking them to attend the counselling on 01.09.2004 (MPC candidates) and on 02.09.2004 (Bi.P.C. candidates). The note appended to the said notification reads as follows:

“Candidates who have passed Intermediate Vocational Course and Bridge Course prescribed and who have applied to the Regional Joint Director of Technical Education, Hyderabad for admission can also attend the counselling to take admission into the available seats.”

In view of the said clarification issued in the notification, since the petitioner passed Intermediate (Vocational Course) Examination, he sought admission to Diploma in Pharmacy Course in Raghavendra Institute of Pharmaceutical Sciences, Chiyyedu, Anantapur District and he was allotted to that College. He successfully completed the said course in first class and he was awarded Diploma on 29.07.2006. Thereafter, he applied to

respondent No.4-Andhra Pradesh Pharmacy Council for registration as a Pharmacist and the impugned endorsement was made by respondent No.4.

It appears from the material papers filed along with the writ petition, respondent No.4 addressed several letters in March 2007 to respondent No.3 seeking clarification with regard to the minimum qualification for admission to Diploma in Pharmacy Course. Respondent No.3 in its letter, dated 24.05.2007, stated that the following courses were not approved by it under Sub-Regulation (5) of Regulation 5 of the Regulations for admission to Diploma in Pharmacy Course.

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- (i) Intermediate Vocational Course in Rural Engineering Technician conducted by Andhra Pradesh Board of Intermediate Education, Hyderabad;
 - (ii) Higher Secondary School Certificate examination conducted by Board of Secondary Education, M.P., Bhopal;
 - (iii) Higher Secondary examination conducted by Council of Higher Secondary Education, Orissa, Bhubaneswar.

But, by that time, the petitioner already completed his Diploma in Pharmacy Course and obtained certificate also.

Sub-Regulation (5) of Regulation 5 of the Regulations reads as follows:

“(Minimum qualification for admission to Diploma in Pharmacy Part-I Course-A pass in any of the following examinations with Physics, Chemistry and Biology or Mathematics.

- (1) Intermediate examination in Science;

- (2) The first year of the three year degree course in Science;
- (3) 10+2 examination (academic stream) in Science;
- (4) Pre-degree examination;
- (5) Any other qualification approved by the Pharmacy Council of India as equivalent to any of the above examination.

Provided that there shall be reservation of seats for Scheduled Caste and Scheduled Tribe candidates in accordance with the instructions issued by the Central Government/State Government/Union Territory Administrations as the case may be from time to time.)”

The Director of Technical Education specifically issued a notification stating that the candidates, who passed Intermediate (Vocational Course) Examination, are eligible for admission and the petitioner completed the Course which cannot be found fault with. When respondent No.4 doubted whether the Rural Engineering Technician Course conducted by the Board of Technical Education, Andhra Pradesh is equivalent to the minimum qualification prescribed by respondent No.3, or not, the same was clarified only after completion of the course by the petitioner on 24.05.2007. There is no dispute that the petitioner completed the said course in first class. In the circumstances, one cannot hold that the petitioner was at fault in pursuing the course of Diploma in Pharmacy or the Diploma obtained by the petitioner cannot be recognised. Peculiarly, the letter addressed by respondent No.3 on 24.05.2007 was not communicated to respondent No.2-Director, Department of Technical Education and it is not known whether respondent No.2 was aware of such clarification. The clarification issued by respondent No.3 cannot be related back to the date of admission of the petitioner.

In view of the same, the decisions relied upon by respondent No.3 in the counter-affidavit, reported in **Rajendra Prasad Mathur Vs. Karnataka University and another**¹ and **Kusum Lata Vs.State of Haryana**² are not applicable to the facts of the present case and in any event, the Supreme Court in **Rajendra Prasad Mathur's** case, made the following observations:

“The appellants being young students from Rajasthan might have presumed that since they had passed the first year B.Sc. Examination of the Rajasthan or Udaipur University or in any event the Higher Secondary Examination of the Secondary Education Board, Rajasthan they were eligible for admission. The fault lies with the Engineering Colleges which admitted the appellants because the Principals of these Engineering Colleges must have known that the appellants were not eligible for admission and yet for the sake of capitation fee in some of the cases they granted admission to the appellants. We do not see why the appellants should suffer for the sins of the managements of these Engineering Colleges. We would therefore, notwithstanding the view taken by us in this Judgment allow the appellants to continue their studies in the respective Engineering Colleges in which they were granted admission. But we do feel that against the erring Engineering Colleges the Karnataka University should take appropriate action because the managements of these Engineering Colleges have not only admitted students in eligible for admission but thereby deprived an equal number of eligible students from getting admission to the Engineering Degree Course.”

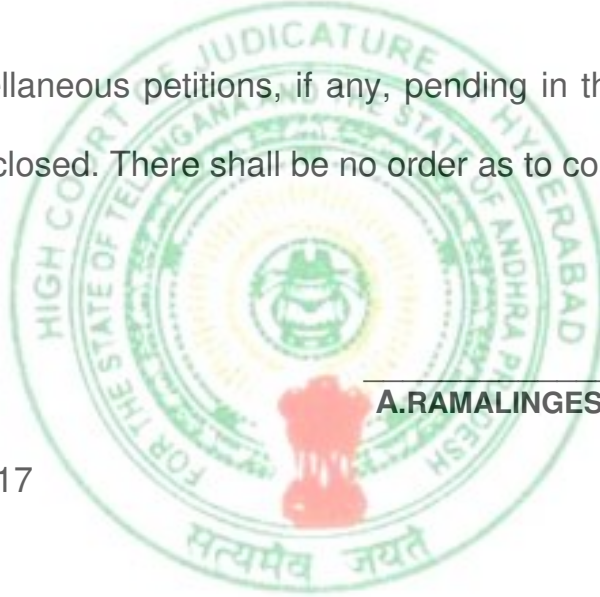
¹ AIR 1986 SC 1448

² AIR 2002 SC 2790

But, in the instant case, the petitioner did not deprive any other eligible candidates nor it is the case of respondent No.2, who granted admission, that the petitioner was ineligible to get admission.

In the circumstances, the writ petition is allowed directing respondent No.4 to take into consideration the Diploma obtained by the petitioner from the State Board of Technical Education, Andhra Pradesh, Hyderabad for the purpose of registration as Pharmacist and pass orders accordingly.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.



A.RAMALINGESWARA RAO,J

Dt:13.06.2017

kdl