

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 9118 OF 2018

Dattatraya s/o Tanaji Mhetre

Petitioner

Versus

The State of Maharashtra
& others

Respondents

Mr. S.S. Shinde, advocate for petitioner.

Mr. D.R. Kale, AGP for Respondents 1 and 2.

Mr. M.D. Narwadkar, advocate for Respondent no.3.

Mr. Sachin Deshmukh, advocate for Respondent no. 4.

CORAM : R.M.BORDE &

MANGESH S. PATIL, JJ.

DATE : 10th October, 2018

PER COURT:

1. Heard.

2. Petitioner is desirous of securing admission to three year LL.B. degree course and has appeared for Common Entrance Test and claims to be qualified to secure admission. Online application form tendered by petitioner was not accepted and as such, this Court by order dated 27.08.2018 directed respondents to accept hardcopy of the option form and accordingly, the option form has been accepted.

3. It is the contention of respondent-admission authority that in view of Rule 2.4 as well as explanation 1, petitioner is not eligible to secure admission to LL.B. degree course. Petitioner has secured SSC qualification in the year 2012 and has completed

graduation from Open University in the year 2017. After securing graduation degree, petitioner appeared for 12 standard examination and has secured HSC certificate in the year 2018. Rule 2.4 of the admission rules provides that a candidate who has obtained HSC or equivalent and graduation degree through open/distant mode are also eligible. However Non Sequential qualification is not allowed. Explanation (i) reads "If the Candidate has not obtained any of the qualifications prescribed in the pattern of 10+2+3, then, he/she will not be eligible for admission to any of the three year LL.B. Degree course. This means that candidate having Non-sequential Educational Qualifications will not be eligible for admission to LL.B. 3 Yrs. CET/Course." In the instant matter, petitioner though has secured graduation degree however, the qualification secured by him is Non-sequential educational qualification. Petitioner has secured graduation degree in the year 2017 whereas he has cleared 12th standard in the year 2018.

4. Petitioner has invited our attention to Rules of Legal Education framed by the Bar Council of India and replying upon proviso to Rule 5, it is contended that the applicants who have obtained 10 + 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' LL.B. course, as the case may be. Explanation to Rule 5 provides that 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. In the instant matter, basic

qualification required for prosecuting degree course is 12th standard which, the petitioner did not possess while prosecuting degree education. Petitioner thus, appears to have cleared graduation qualification without having any basic qualification for prosecuting such studies and as such, he is not eligible for admission to 3 yrs. law course.

5. The issue raised in the instant petition has been considered by the Full Bench of the Madras High Court in Writ Petition no. 44242/2016 and other companion matters decided on 23.07.2018. The Full Bench of the Madras High court has recorded findings in paragraphs no. 39 and 40 of the judgment which read thus :

39. Much emphasis has been placed on the Explanation after the proviso to Rule 5 of the Legal Education Rules, which reads that "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". The Explanation means that for admission to the Three Year LL.B. Course, it is necessary for a student to first clear the Secondary School Leaving Certificate Examination or equivalent examination conducted by some recognized board; thereafter, the Higher Secondary Course Certificate Examination or equivalent examination conducted by some recognized board, and thereafter on successful completion of an Undergraduate course and/or programme in any discipline conducted by recognized University or its affiliated institution either by holding classes which require attendance or through the distance or correspondence mode. It is reiterated that the

graduate degree would have to be obtained by successfully completing a regular course conducted by the university.

40. A candidate, who may have passed the Higher Secondary Course Certificate Examination (+2) without clearing the Secondary School Leaving Certificate Examination (+10+ or alternatively a candidate, who may have straightway graduated under the Open University System without clearing the Secondary Course Certificate Examination, or either, as the case might be, would not be eligible for admission.

6. We are in respectful agreement with the view adopted by the Full Bench of Madras High Court, which is based on correct interpretation of the provisions of the Rules of Legal Education framed by the Bar Council of India.

7. For the reasons recorded above, there is no merit in the petition. Writ petition stands dismissed.

MANGESH S. PATIL
JUDGE

R.M.BORDE
JUDGE

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