

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.04.2018

DELIVERED ON : 23.07.2018

CORAM

The HON'BLE MS.INDIRA BANERJEE, CHIEF JUSTICE,

THE HON'BLE MR.JUSTICE R.SUBBIAH

AND

The HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.18931 of 2017

Minor Rahul R. Vaithinathan
rep. his mother and natural guardian, V.Radha
daughter of Late V. Vaithinathan
11/1, Thilak Street Extension
T.Nagar, Chennai - 600 017. ... Petitioner

Vs

- 1 National Institute of Open Schooling (NIOS)
rep. by its Regional Director
Lady Wellington Campus
Kamarajar Salai, Triplicane
Chennai - 600 005.
- 2 Tamil Nadu Dr.Ambedkar Law University
rep. by its Registrar
4, Dr.D.G.S. Dinakaran Salai
Poompozhi, Raja Annamalai Puram
Chennai - 600 028.
- 3 The Bar Council of India
rep. by its Chairperson
21, Rouse Avenue
Institutional Area
Near Bal Bhawan
New Delhi - 110 002. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus to call for the records on the file of the second respondent in Application No.HN517AB001, dated 27.6.2017, to quash the same as illegal and incompetent and to direct

the second respondent to admit the petitioner in law course for the academic year 2017.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.J.Ravikumar
for 1st respondent

Mr.M.Nallathambi
for 2nd respondent

Mr.S.R.Raghunathan
for 3rd respondent

ORDER

Ms.INDIRA BANERJEE, CHIEF JUSTICE

In this writ petition, the petitioner challenges the proceedings of the second respondent dated 27.6.2017, in and by which the petitioner's son was held to be "not eligible" for admission to Five Year B.A. L.L.B (Hons.)/B.B.A. L.L.B.(Hons) Degree Course on the ground that he pursued his schooling in National Institute of Open Schooling.

2. According to the petitioner, her son had done the mandatory 12 years of education and is fully eligible for admission to the Five Year Law Degree as per Rule 5 of the Rules of Legal Education, 2008, hereinafter referred to as "the Legal Education Rules". It is stated that National Institute of Open Schooling is like an Open University and is recognized by all the professional bodies and Universities.

3. In the counter affidavit filed on behalf of the National Institute of Open Schooling, it is emphatically stated that National Institute of Open Schooling is one of the National Boards of India offering Class X and XII certification through open and distant mode of education, which comes under the Ministry of Human Resource Development, Government of India and is an alternate channel for completion of schooling. It is further stated that the Legal Education Rules restrict only Open Universities and not Open Schooling. It is further stated that National Institute of Open Schooling is following the 10+2 system of schooling in tune with CBSE and other school boards of India and it is a member of the Council of Boards of School Education, New Delhi.

4. The Central Board of Secondary Education way back on 30.10.1991 had issued a Circular to the effect that examinations conducted by the National Open School at the end of Classes X/XII as equivalent to its examinations at the end of Classes X/XII.

5. The Regional Director, National Institute of Open Schooling, vide letter bearing Ref.No.542-12/2017/NIOS/RCC/SSS/Eligibility Cert./6467, dated 5.6.2017, stated that the National Institute of Open Schooling "offers school education up to Senior Secondary level through open and distance mode supported by the face to face contact sessions at the study centers spread all over the country and abroad."

6. At this juncture, it is appropriate to refer to Rule 5 of the Rules of Legal Education, 2008, hereinafter referred to as "the Legal Education Rules":

"Rule 5. Eligibility for admission.- (a) Three Year Law Degree Course: An applicant who has graduated in any discipline of knowledge from a University established by an Act of Parliament or by a State Legislature or an equivalent national institution recognised as a Deemed to be University or foreign University recognised as equivalent to the status of an Indian University by an authority competent to declare equivalence, may apply for a three years' degree programme in law leading to conferment of LL.B. Degree on successful completion of the regular program conducted by a University whose degree in law is recognised by the Bar Council of India for the purpose of enrolment.

(b) Integrated Degree Programme: An applicant who has successfully completed Senior Secondary School course (+2) or equivalent (such as 11 + 1, 'A' level in Senior School Leaving certificate course) from a recognised University of India or outside or from a Senior Secondary Board or equivalent, constituted or recognised by the Union or by a State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the program of the Centres of Legal Education to obtain the integrated degree in law with a degree in any other subject as the first degree from the University whose such a degree in law is recognised

by the Bar Council of India for the purpose of enrolment.

Provided that applicants who have obtained +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.- 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."
(emphasis supplied)

7. A reading of Rule 5 of the Legal Education Rules makes it amply clear that the petitioner's son, who had pursued his studies in National Institute of Open Schooling, which provides education through open and distance mode, comes within the purview of proviso to Rule 5, supra and is duly eligible for admission to Five Year B.A. L.L.B (Hons.)/B.B.A. L.L.B.(Hons) Degree Course.

8. In Harish N. v. Sheshadripuram Law College and others [Judgment dated 13.12.2017 passed in W.A.No.5142 of 2016 and batch cases], a Division Bench of the Karnataka High Court, had in identical circumstances, held that:

"13. Analysis of the qualifications of the appellants shows that they have appeared as private candidates either in their 10th, '+2' or 'first graduation' examination. It is relevant to record that, the appellants have attended classes in the School and appeared for the 10th, '+2' or 'first graduation' examination as private candidates or through open schooling method. Therefore, they cannot be classified as applicants, who have obtained their respective '+2' or 'graduation/post graduation' qualification directly, without having any basic qualification. The resultant position is that, the applicants' cases would fall within the 'proviso' to Rule 5 of the BCI Rules and the 'Explanation' shall have no application. Consequently, they shall be entitled to pursue their 3 years or 5 year Law courses."

9. For the foregoing reasons and the reasons of this Court in W.P.No.32095 of 2015, dated 7.3.2018 (M.Ramachandran v. The Chairman, Law Admission 2015-16, Tamil Nadu Dr. Ambedkar Law University and others), this Court is of the firm view that the petitioner's son is fully eligible to be considered for admission to Five Year B.A. L.L.B (Hons.)/B.B.A. L.L.B.(Hons) Degree Course.

The writ petition is, thus, allowed. The petitioner's son shall be admitted to the ensuing session of Five Year Law Course, subject to compliance of all requisite formalities for obtaining admission. No costs. Consequently, W.M.P.Nos.20439. and 38059 of 2017 are closed.

Sd/-
Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

bbr/sasi

TO

1 THE REGIONAL DIRECTOR
NATIONAL INSTITUTE OF OPEN SCHOOLING (NIOS)
LADY WELLINGTON CAMPUS, KAMARAJAR SALAI,
TRIPLICANE, CHENNAI-5

2 THE REGISTRAR,
TAMILNADU DR.AMBEDKAR LAW UNIVERSITY
5, DR.D.G.S. DINAKARAN SALAI,
POOMPOZHIL, RAJA ANNAMALAI PURAM, CHENNAI-28

3 THE CHAIRPERSON,
THE BAR COUNCIL OF INDIA,
21, ROUSE AVENUE, INSTITUTIONAL AREA,
NEAR BAL BHAWAN, NEW DELHI 110 002

+1cc to Mr.V.RAGHAVACHARI, Advocate, S.R.No.48830
+1cc to Mr.M.NALLATHAMBI, Advocate, S.R.No. 49309

order in
W.P.No.18931 of 2017

TR(31/07/2018)