

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 38 of 2010**

Akhilesh Kumar Pandey, 32 years, S/o Narbadeshwar Pandey, Basant Vihar Colony, R. No. 11, Puraina, Behind Mining Office, Raipur, Chhattisgarh.

---Appellant/Plaintiff

Versus

1. Pt. Ravishankar Shukla University, By Vice Chancellor, Raipur.
2. Dr. R.K. Pradhan, Officer Special Duty (Exam), Pt. Ravishankar Shukla University, Raipur.

---- Respondents/Defendants

For Appellant :- Mr. Raja Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

02/09/2020

1. Proceedings of this matter have been taken up through video conferencing.
2. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/plaintiff under Section 100 of the CPC against the impugned judgment and decree passed by the first appellate Court affirming the

judgment and decree by which the trial Court dismissed the suit.

3. Mr. Raja Sharma, learned counsel for the appellant/plaintiff would submit that both the Courts below are absolutely unjustified in not granting decree in favour of the plaintiff directing the defendant No. 1 University to issue result of the plaintiff in accordance with the law declared by the Supreme Court in the matters of **Shri Krishan v. The Kurukshetra University, Kurukshetra**¹ and **Sanatan Gauda v. Berhampur University and Ors.**², as such, the appeal deserves to be admitted by formulating substantial question of law for determination in this regard.

4. Plaintiff herein, having passed M.Sc. final year examination in the subject inorganic chemistry from Awdhesh Pratap University, Rewa in the year 1994, applied for M.Sc. in inorganic chemistry (final year) on 27/06/2002 from defendant No. 1 Pt. Ravishankar Shukla University wherein his admission card was issued on 18/07/2002 allowing him to appear in the said examination, and ultimately, he was allowed to appear in the

1 AIR 1976 SC 376

2 AIR 1990 SC 1075

examination also, but later on his result was not declared by the defendant No. 1 University on the basis of Ordinance 22 Clause 6 of the University stating that plaintiff's admission is in violation of ordinance 22(6) promulgated under the provisions by the University under Madhya Pradesh Universities Act, 1973 against which the plaintiff preferred a civil suit directing the defendant No. 1 University to declare his result.

5. Learned trial Court, after evaluation of oral and documentary evidence on record, dismissed the suit of the plaintiff which was upheld by the first appellate Court in the appeal preferred by the plaintiff.

6. Ordinance 22(6) of the defendant No. 1 University states as under :-

"6. The subject of the examination shall be one of the following :

(I) Mathematics (ii) Physics (iii) Chemistry (iv) Zoology (v) Botany (vi) Geology (vii) Bio-Science (viii) Statistics (ix) Anthropology (x) Defence studies (xi) Micro-Biology (xii) Electronics

Any candidate who has passed the M.Sc. Examination of this University in any subject shall be allowed to present himself in examination in any one or more of the optional papers in the subject not taken by him at the said examination and if successful, will be given a certificate to that effect.

Provided that no candidate shall be allowed to offer more than two additional papers in any one year and in subjects other than mathematics, a candidate shall undergo a practical test in respect of the paper concerned."

Both the Courts below relying upon the above- stated ordinance dismissed the suit and appeal of the plaintiff.

7.The concurrent finding recorded by both the Courts below that plaintiff is not entitled for degree of M.Sc. in inorganic chemistry from the defendant No. 1 University in view of Ordinance 22 Clause 6 of defendant No. 1 University is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record.

8.The second appeal deserves to be and is accordingly dismissed in limine without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet