

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2013 of 2020**

1. Akhil Kumar Rathor S/o Pitambar Singh Rathor, Aged About 19 Years
R/o Ward No. 11, Narayan Tola, Badhawan Dandh Khodari, District
Gaurela Pendra Marwahi, Chhattisgarh
2. Vaibhav Sahu D/o Moolchand Sahu, Aged About 19 Years, R/o Village
Pendra, Ward No. 14, Tahsil Pendra, District Gaurela Pendra Marwahi,
Chhattisgarh
3. Tapeswar Kumar S/o Bhukhan Das Chandra, Aged About 21 Years,
R/o Village Matiyadand, Post Rumga, District Gaurela Pendra Marwahi,
Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary, Higher Education,
Mantralaya Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur,
Chhattisgarh
2. The Secretary, Technical Education Department, Mantralaya Mahanadi
Bhawan, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh
3. Indira Gandhi Krishi Vishwavidyalaya Through The Registrar, Krishak
Nagar, Tahsil And District Raipur, Chhattisgarh
4. The Vice Chancellor, Indira Gandhi Krishi Vishwavidyalaya Through
The Registrar, Krishak Nagar, Tahsil And District Raipur, Chhattisgarh
5. University Grant Commission Through Secretary, Bahadur Shah Zafar
Marg, New Delhi

---- Respondents

For Petitioners	:	Mr. N. K. Malviya, Advocate
For Respondents 1 & 2	:	Mr. Siddharth Dubey, Dy. Govt. Advocate
For Respondents 3 & 4	:	Mr. Sangharsh Pandey, Advocate

For Respondent no.5 : Mr. S. S. Rajput, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

01.10.2020

1. The challenge in the present writ petition is to the notification dated 30.07.2020 issued by the respondent no.3 University.
2. The matter pertains to the admission in B.Sc. Agriculture (Hons.) and B.Sc. Horticulture (Hons.) courses, conducted by the respondent no.3 University for academic session 2020-21.
3. The factual matrix of the case is that the petitioners in the present writ petition are students who have passed their 12th examination under the Chhattisgarh Board of Secondary Education. All the petitioners belong to Arts category where they have taken agriculture as their subject. According to the petitioners, since they are from agriculture background in 12th class, the further studies in agriculture stream is the only option left to them and all the petitioners are keen in getting admission in B.Sc. Agriculture (Hons.) or B.Sc. Horticulture (Hons.) courses.
4. The admission for both these courses till the previous academic year i.e. 2019-20 was by way of an entrance examination i.e. Pre Agriculture Test (PAT). Because of the impact of COVID-19 pandemic situation, the respondent authorities are not in a position to conduct PAT this year and now the respondent no.3 University has issued a notification dated 30.07.2020 whereby it has been decided that for the current academic session 2020-21, the admission for B.Sc. Agriculture (Hons.) and B.Sc. Horticulture (Hons.) shall be on the basis of the marks scored in 12th standard. The notification also provides that the assessment shall be

done on the basis of the marks scored by the students of science wing in subjects Physics, Chemistry & Mathematics/Biology. Similarly, for the students from the agriculture wing, the assessment shall be done on the basis of the marks scored in 3 subjects i.e. the elements of science & mathematics useful for agriculture, crop production and horticulture & animal husbandry and poultry. It is this part of notification which the petitioners are aggrieved of.

5. According to the petitioners, by permitting the students from science wing to participate in the admission process, the chances of the petitioners in getting admission in the said courses gets restricted/reduced substantially. According to the petitioners, the advantage that the science students have is that they get marks also for the practicals which improves their scoring and percentage and in the process, they would always march ahead in the process of selection by virtue of scoring more marks.
6. According to the petitioners, since they are from agriculture background and the course notified is of agriculture and horticulture, the respondents should give admission on priority basis to the petitioners with agriculture background and only thereafter if seats are left available, admission should be granted to the students from science wing. It is the contention of the petitioners that for B.Sc. Agriculture (Hons.) and B.Sc. Horticulture (Hons.) courses, since the petitioners are from agriculture background, they are the most suitable candidates for admission and they should not be denied admission ignoring their claim by providing admission to the students from science stream who have not studied agriculture whatsoever till now. According to the petitioners,

in the PAT which was conducted till now, since a vast majority of questions were related to agriculture subject, the students from agriculture wing had the advantage of attempting those questions and scoring more marks and the petitioners would not be getting the said benefits in the present system of admission introduced for this academic session 2020-21. Thus, counsel for the petitioner prayed for an appropriate direction to the respondents in this regard.

7. Learned counsel for the contesting respondent University, on the other hand, vehemently opposing the petition drew the attention of the Court to the relief that the petitioners have sought which according to the respondents, is outrightly not sustainable as the same would be arbitrary and violative of Article 14 if such a relief is granted.
8. Counsel for the University submits that taking into consideration the pandemic situation prevailing in the country and which has also severely affected the State of Chhattisgarh, the University was of the view that the PAT cannot be conducted under the prevailing circumstances. Therefore, to determine the mode of admission, the University authorities have enacted a rule for this academic session known as "Indira Gandhi Krishi Vishwavidyalaya Ke Snatak Pathyakramon Mein Pravesh Niyam, 2020."
9. Counsel for the University further submits that as per the said rules, this year, the University has taken a decision for providing admission in the aforementioned two courses on the basis of the marks obtained in 12th standard. He submits that the said decision has been taken particularly because of the precarious condition prevailing in the country.
10. According to the University, it is not a case where the petitioners would

not be permitted to participate in the admission process, rather, the petitioners also have an equal right to participate and being considered. According to the University, in fact, at some point of time, the petitioners are also given an advantageous position as would be evident from the notification wherein it has been categorically held that in the event of candidates from science and candidates from agriculture stream have obtained equal marks, then the candidate from the agriculture background will be given preference. Thus, the University has in fact taken care of the right of the petitioners who are from agriculture background and the notification thus does not warrant any interference. Likewise, it is the contention of the University that since this notification has been issued under the recently framed Rules of 2020, unless the Rule itself is challenged and held to be bad, the petitioners do not have a right to challenge the notification alone. Thus, prayed for the writ petition to be dismissed.

- 11.** Having heard the contentions put forth on either side and on perusal of the record what needs to be considered at this juncture is the fact that this year i.e. the present academic session 2020-21 is a special year and it is totally different from the situation which was prevailing in all previous years. Admittedly, under the present set of facts, it is not an easy task to conduct an entrance examination at this situation and with such precarious prevailing situation, the respondents had to take such decision in respect of granting admission for the courses run by different universities. It was keeping this in mind that the University authorities in their wisdom thought it proper for granting admission in B.Sc. Agriculture (Hons.) and B.Sc. Horticulture (Hons.) courses on the

basis of marks obtained in 12th standard. The petitioners also are eligible for participating in the admission process. All the contentions that the petitioners have raised are all based on apprehension and also refers to a hypothetical situation. It also needs reference at this juncture that in the event of a student from science and that of agriculture background get the same marks, the student from agriculture stream shall be given preference as per the notification.

- 12.** True it is that the possibility of a situation as apprehended by the petitioners cannot be ruled out but what is also important is to consider the fact that the admission has to be given in the respective courses and at the same time, conducting of the entrance examination also was not feasible and therefore, the respondents have framed a modality of granting admission based on the marks scored in 12th standard. Another aspect which cannot be ignored is the fact that subjects like Physics, Chemistry & Biology (Zoology & Botany) also play an important role in the study of agriculture as well as horticulture courses. Therefore, it cannot under any stretch of imagination be conceived of these subjects to of less importance and thereby depriving the science students of their right to apply for B.Sc. Agriculture (Hons.) and B.Sc. Horticulture (Hons.) courses.
- 13.** A slight inconvenience and disadvantageous position which may arise this year because of the precarious condition prevailing, cannot be a ground for the High Court to invoke its writ jurisdiction to interfere with the notification which has been issued considering the prevailing situation. In the event of the situation improving in next academic session, this Court finds no reason why the University authorities would

not switch back to the method of admission adopted till now in the previous academic sessions. Moreover, the contention of the counsel for the University also has force when he submits that the notification is based upon the Rules framed for admission this year which is not under challenge and without a challenge to the Rules, the notification cannot be said to be bad.

14. On similar lines, the Division Bench of the High Court of Delhi in the case of Ashutosh Bharti Vs. Ritnand Balved Education Foundation reported as MANU/DE/0024/2005 has held that educational institutions are the best judges to impose appropriate restrictions and conditions and merely because the conditions imposed were found to be inconvenient to some students, could not be a ground to lay a challenge to the same as being arbitrary. In a recent decision of another Division Bench of the Delhi High Court, in the case of Independent Schools' Federation of India (Regd.) Vs. Central Board of Secondary Education and Anr. Reported as 183 (2011) DLT 211, has reiterated that Courts are not experts to judge the decisions that have been arrived at by the educational bodies and experts.

15. For the aforesaid reasons, this Court does not find any strong case made out by the petitioners to interfere with the impugned notice since the petitioners also have a right to participate in the admission process. The writ petition thus being devoid of merits deserves to be and is accordingly dismissed.

Sd/-
P. Sam Koshy
Judge