

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Moushumi Bhattacharya

WPA 15372 of 2014

Smt. Krishna Nath

Vs.

University Grants Commission and Others.

For the Petitioner	: Mr. Subir Sanyal, Adv. Mr. Ratul Biswas, Adv. Ms. Sumouli Sarkar, Adv. Mr. Sagnik Roy Chowdhury, Adv. Mr. Ishan Bhattacharya, Adv. Mr. Aranya Basu, Adv.
For the W.B.C.S.C.	: Mr. Pulak Ranjan Mandal, Adv. Mrs. Bandana Mandal, Adv.
For the U.G.C.	: Mr. Anil Kumar Gupta, Adv.
Last Heard on	: 02.05.2022.
Judgment on	: 13.05.2022.

Moushumi Bhattacharya, J.

1. The petitioner appeared in the UGC National Eligibility Test for Junior Research Fellowship and Eligibility for Lectureship conducted by the University Grants Commission on 24.06.2012. The petitioner

belongs to the O.B.C. category and the petitioner's candidature was considered by the UGC after which the petitioner was allotted a Roll No. The petitioner seeks a mandamus on the UGC, in particular the Deputy Secretary, UGC (respondent no. 3) to withdraw a communication dated 05.12.2013 by which the petitioner was declared disqualified in the UGC-NET. The petitioner also seeks a direction on the UGC for upholding the qualification of the petitioner in terms of a Notification dated 18.09.2012.

2. Learned counsel appearing for the petitioner places various documents to show that the UGC categorized the petitioner as a S.C. candidate which would be evident from the impugned communication dated 05.12.2013. Counsel also points to the discrepancy in the marks awarded to the petitioner as would be evident from the relevant annexure in the writ petition and the case made out by the UGC in the affidavit-in-opposition.

3. Learned counsel appearing for the UGC relies on UGC Notification under which a minimum percentage to be obtained by the candidates in the O.B.C. and S.C/S.T as well as general categories have been specified. Counsel also relies on Clause 5 of the Notification dated 18.09.2012 which provides that UGC will not entertain queries with regard to OMR answer-sheets after 30 days from the publication of results.

4. After hearing learned counsel appearing for the parties, admittedly there are certain patent discrepancies in the case made out by the UGC which are evident from the records. First, the mark-sheet of NET June, 2012 of the UGC distributes the marks of the petitioner in Papers I, II, III as 52.00%, 52.00% and 62.67% respectively with the aggregate of 56.57%. On the other hand, in the affidavit in opposition, according to UGC, the marks secured by the petitioner in Paper III is 64.00% and the aggregate is 57.14%. It is therefore clear that the UGC itself has relied on a distribution which is different from its own mark-sheet of NET June, 2012. Second, in the impugned communication of 05.12.2013, UGC had stated that the petitioner was provisionally qualified as a S.C. candidate which is factually incorrect since the petitioner was always an O.B.C candidate. Third, the Notification of the UGC states that for O.B.C (non-creamy layer) candidates, the qualifying percentage in Paper I is 35%, in Paper II 35% and in Paper III 67.5% rounded off to 68. The Notification further states that the candidates would have to obtain a minimum required marks in each Paper separately. If the percentages awarded to the petitioner as reflected in the affidavit-in-opposition of UGC is taken into consideration, the petitioner, as an O.B.C candidate, fulfilled the minimum marks percentage in both Paper I and Paper II by falling short of 3% marks in Paper III. Next, the clause in the Notification giving power to UGC for deciding final qualifying criterion for Junior Research Fellowship and Eligibility for Lectureship is unilateral and arbitrary. There is no

intelligible criterion stated by UGC anywhere, including in the said Notification, as to the basis of requiring 67.5% rounded of to 68 in Paper III. There is also a 45% given in brackets as a qualifying percentage in Paper III. This itself is unclear to the Court and the required percentage in Paper III has not been explained on behalf of UGC. Moreover, the Notification dated 18.09.2012 of the UGC for the result of the UGC-NET for Junior Research Fellowship and Eligibility for Lectureship held on 24.06.2012 includes the Roll No of the petitioner as having provisionally qualified for award of Junior Research Fellowship. Hence, the impugned letter of 05.12.2013 declaring the petitioner disqualified for the reasons stated in the said letter does not have any factual basis or any basis as would appear from the documents on record.

5. *University Grants Commission vs Neha Anil Bobde; (2013) 10 SCC 519* has been cited for the proposition that the Court shall generally not sit in an appeal over the opinion expressed by expert academic bodies. The Supreme Court stated that UGC has been entrusted with the duty of taking steps for the determination and maintenance of standards of teaching, examination and research in the University as the UGC is an expert body for ensuring such standards. There are no two views about the proposition that the UGC is an expert body. However, the facts in the present case show that the UGC has itself presented two views and there is an expressed discrepancy in the marks awarded to the petitioner even by its own records. Clause 5 of the Notification dated 18.09.2012, relied upon by learned counsel appearing for the UGC of

stipulated 30 days for entertaining queries is also not relevant since the UGC itself has provided the marks awarded to the petitioner in its affidavit-in-opposition affirmed on 25.08.2014 which is more than 2 years after the date on which the examination was conducted.

6. In view of the above reasons, this Court is inclined to allow the writ petition in terms of prayer (a). The UGC is directed to withdraw the impugned letter dated 05.12.2013 and uphold the result of the petitioner in the Notification dated 18.09.2012. WPA 15372 of 2014 is disposed of in terms of this judgment.

Urgent Photostat certified copies of this judgment, if applied for, be given to the respective parties upon fulfilment of requisite formalities.

(Moushumi Bhattacharya, J)