

Selson Vs. Board of Examining Authority

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Court : Karnataka

Decided On : Aug-21-1986

Reported in : ILR1987KAR493

Judge : Doddakale Gowda, J.

Acts : Admission to Diploma in Pharmacy in Pharmacy Council of India Regulations - Rules 3 and 10

Appeal No. : W.P. No. 7159 of 1985

Appellant : Selson

Respondent : Board of Examining Authority

Advocate for Def. : N. Devadas, HCGP for R-1

Advocate for Pet/Ap. : B.S. Raikote, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Doddakale Gowda, J.

1. Decision of first respondent declining to accept admission of petitioner to second respondent-an Educational Institution, imparting D. Pharma Course

(Annexure-E) is questioned in this Writ Petition.

2. Facts which have lead to issue of this endorsement are :-

Petitioner on completion of Higher Secondary Course Certificate, 'vocational education', conducted by Government of Tamil Nadu was admitted to second year D. Pharma Course at S.C.S. College of Pharmacy, Harappanahalli-second respondent, during academic year 1984-85. After some correspondence and discussion Board of Examining Authority informed that it is not possible to accept admission of petitioner and will not be allowed to appear for examination scheduled to be held in May 1985.

3. Contention of petitioner is that he is eligible for admission to second year D. Pharma Course while first respondent justify denial of admission. Thus, question required to be considered is whether petitioner is eligible or ineligible for admission to second year D. Pharma Course?

4. Admission to Diploma in Pharmacy is governed by Regulations framed by Pharmacy Council of India; it is a two years course consisting of three parts - first year of the course is considered as Part-I; second year of the course is considered as Part-II and practical training after completion of the Course is treated as Part-IIB. Rule 3 and second proviso to Rule 10 of Regulations, 1981 framed by Pharmacy Council of India which are relevant for the purpose of deciding this case read thus :

'3. Minimum Qualification for admission to the course :-

Any person who wishes to be admitted as a student to the course of study for Diploma in Pharmacy (Part 1), shall produce to the head of the institution, imparting the training in accordance with these regulations, evidence of having passed.--

(a) Matriculation examination or a high School examination or a secondary school leaving certificate examination with chemistry, physics and mathematics ; or

(b) any other examination accepted by the Pharmacy Council of India as equivalent to any of the above examinations.'

Regulation also contemplates direct admission to second year.

'10 Provided further that a student who has passed :

(i) the intermediate examination in science, or

(ii) the first year of a three years' degree course in science, or

(iii) 10+2 examination (academic stream) in science, or

(iv) an examination accepted by the Pharmacy Council of India as being equivalent to any of the above examinations ; shall be eligible for admission directly into the 2nd year class of the Diploma in Pharmacy (Part IIA).' (underlining is of mine)

5. Marks Card (Annexure-A) issued by Board of Higher Secondary Education, Tamil Nadu, discloses that he has studied Tamil, English, Chemistry (T), Foundation Science (T) Medical Laboratory Assistant, Theory (T), practical (T) and has secured total 426 marks.

Main defence urged in statement of objections reads thus:--

'The contention that the Higher Secondary Course Certificate of Tamil Nadu in Science, is equivalent to P.U.C. Science in Karnataka, may be correct, but the petitioner has passed higher Secondary Course of Vocational Education wherein, the petitioner has not studied the subjects Physics and Biology. Apart from this, the Pharmacy Council of India, has not considered the certificate with vocational course produced by the petitioner as equivalent to the examinations or certificates prescribed for admission to the course.'

6. Distinction between education imparted at Vocational Courses and traditional academic courses are vivid and well recognised.

Courses conducted by academies impose significant curricular requirements and higher learning in special subjects. Word 'Academy' as defined in Encyclopaedia Britannica, is generally a place of instruction or training and specifically as a school intermediate between common school and colleges or any institution where higher branches are taught or pupils are trained in some special science or art. Academy combines literary and social status.

Vocational Education or Trade or Industrial training, is instruction that is intended to fit persons for industrial or commercial occupations, it may be secured in various ways; (1) learning on the job by the 'pickup' method without educational supervision; (2) learning in training programmes, departments, or schools maintained by employers; (3) learning as apprentices ; (4) learning in trade, technical secondary, continuation or night schools ; and (5) learning in shops and schools according to some co-operative arrangement between industrial establishments and the schools. - See : Encyclopaedia Britannica, Vol. 23. Vocational education under the National Policy on education will be a distinct stream intended to prepare students for identified occupations. It is a device for developing skills for Entrepreneurship, self-employment, to provide opportunities under predetermined condition for professional growth, career and improvement. Vocational education is a need-based programme available to literates as well as non-literates. Having regard to this distinctive feature, it is rightly contended, students of vocational courses are not eligible for admission under the Rules. It is not possible to accept the plea of Sri B. S.Raikote, learned Counsel for petitioner that there is no difference between education imparted at vocational courses and academic courses.

7. Nextly, it is contended that Pharmacy Council of India has not recognised qualification which the petitioner possessed as an equivalent to qualification prescribed for admission under Regulations, hence ineligible. It is not even the case of petitioner that qualification possessed by him has been declared to be an equivalent qualification by Pharmacy Council of India. Supreme Court in *Rajendra Prasad Mathur v. Karnataka University*, ILR 1986 KAR 2495 has held thus:--

'The equivalence has to be decided by the Karnataka University and it is not a matter of objective assessment or evaluation by the Court. It is for each University to decide the question of equivalence of an examination held by any other Board or University with the examination which primarily constitutes the basis of eligibility..... It is for each University to decide the question of equivalence and it would not be right for the Court to sit in judgment over the decision of the University because it is not a matter on which the Court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University.'

In view of the principles referred to above, Court cannot declare that qualification possessed by petitioner is equivalent to qualification prescribed under regulation for admission.

8. It is also urged by first respondent that as petitioner has not studied subjects like Physics and Biology, he is ineligible for admission to second year. Contention of Sri Raikote, learned Counsel for petitioner, is that regulations enable petitioner to study such of the subjects not studied while prosecuting his second year D. Pharma course. Since I have accepted the contention that qualification possessed by petitioner has not been declared as equivalent to the qualification prescribed under Regulation, it is not necessary to dwell deep into this matter.

9. Lastly, Sri Raikote, learned Counsel for petitioner, citing instance of admission of one Madhavadas to second year D. Pharma Course possessing the same qualification which petitioner has passed, urged denial of admission of petitioner is discriminatory and violative of Article 14 of Constitution of India. Admissions made contrary to regulations cannot be considered as precedent and is no good ground to direct first respondent to perpetrate the same Illegality. Hence, I find no merit in this contention also.

10. In the result, Writ Petition is dismissed, without costs. Rule discharged.

