

Manoj Kumar Gupta Vs. Co-ordinator, Admission Committee Motilal Nehru Regional Engineering College, Allahabad and ors.

Manoj Kumar Gupta Vs. Co-ordinator, Admission Committee Motilal Nehru Regional Engineering College, Allahabad and ors.

SooperKanoon Citation : sooperkanoon.com/463695

Court : Allahabad

Decided On : Feb-06-1985

Reported in : AIR1985All257

Judge : O.P. Saxena and ;B.L. Yadav, JJ.

Acts : [Evidence Act, 1872](#) - Sections 115

Appeal No. : Civil Misc. Writ Petn. No. 9090 of 1984

Appellant : Manoj Kumar Gupta

Respondent : Co-ordinator, Admission Committee Motilal Nehru Regional Engineering College, Allahabad and ors.

Advocate for Def. : R.K. Agarwal, ;N.L. Gangoly, Advs. and ;Standing Counsel

Advocate for Pet/Ap. : Shyam Narain, Adv.

Disposition : Petition allowed

Judgement :

B.L. Yadav, J.

1. By the present writ petition under Article 226 of the Constitution the petitioner has sought the relief for a writ, order or direction in the nature of Mandamus directing the respondents to admit the petitioner to 4/5 years course including B.Arch. course for 1984-85. The facts leading to the present writ petition to this court are that in pursuance of an advertisement for admission to the Engineering College published in the newspaper, the petitioner submitted his application form for admission and he was allotted Roll No. 68548. The petitioner also deposited Rs. 60/- as entrance examination fee as given in the 1984 Information Brochure. A photostat copy of the admit card issued to the petitioner has been filed as Annexure 1 to the writ petition. A combined entrance examination for admission to B.Arch/B.E. courses was held by the admission committee on May 18, 19, 20 and 21, 1984. The total number of seats available in the Govt. College of Architecture, Lucknow were 40 out of which 22 seats were available for U. P. general candidates and 18 seats were available for various reserved categories including 15% reservation of seats for U. P. Backward Class candidates, which came to 6 in number. After the examination the petitioner was declared to be successful candidate, however in the list of U. P. Backward Class candidate, for the B.Arch course. The petitioner was the second candidate to be called for interview to be held on 19-7-84, It is also relevant to mention that the Information Brochure provides certain conditions to be fulfilled by candidates for being selected at different courses. Clause 3.5 lays down certain conditions including 50% marks in aggregate in Physics, Chemistry and Mathematics. In addition to this a candidate must have passed in English at the qualifying examination. For Scheduled Castes candidates, however, there was no minimum percentage of marks in the aggregate. Out of the candidates for the seats reserved for backward class, some candidates did not opt for B.Arch Course and joined other courses. The petitioner was accordingly sent interview card on 5-7-84 issued by the Admission Committee, M.L.N.R. Engineering College, Allahabad (Annexure 2 to the writ petition). In the said interview card in first para it was clearly stated as follows : --

' I am glad to inform you that you have been selected for interview for admission to First year B.Arch course for the session 1984-85 on the basis of your performance amongst the candidates of the above category in the Combined Entrance Examination 1984. The total number of seats available in this category is 6. Your

merit position is 12.'

It was also stated that he was required to report to the office of the undersigned at Allahabad on the reporting date mentioned above (18-7-84), interview date being 19-7-84. The petitioner appeared on that date for interview but was told for the first time that as the petitioner did not obtain 55% marks in the Intermediate Examination, hence he could not be selected for admission. The petitioner has, therefore challenged his refusal and has sought for Writ of Mandamus directing the respondents to admit the petitioner to B.Arch Course.

2. We have heard Sri Shyam Narain, learned counsel for the petitioner, Sri R. K. Agarwal for the M.L.N.R. Engineering College, Allahabad and Sri N. L. Ganguly, learned Standing Counsel, for the respondents. The learned counsel for the petitioner has urged that before the petitioner appeared for the interview there was no information given to the petitioner or to any other candidate that the candidates would be eligible to appear in the B. Arch Course only if they have obtained 55% marks in the Intermediate Examination with Physics, Chemistry and Mathematics. The petitioner appeared in the examination and was declared successful also, although his position was 12 amongst the reserved candidates of B.Arch course and he was also issued the interview card (Annexure 2 to the petition). In that also as stated above, it was clearly specified that the petitioner was declared successful. Before the date of interview no information was furnished to the petitioner, or to any other candidate that minimum percentage of marks is 55% at the Intermediate Examination either through the newspapers or through any leaflet. Hence later on once the petitioner has passed the examination and this was admitted by the Examination Committee also, the petitioner cannot be declared to be not eligible for admission to B.Arch Course, simply on the ground that he did not obtain 55% marks in the Intermediate Examination. It is also admitted by the parties that the petitioner has obtained 55% marks in the B.Sc. Examination from the Allahabad University. Under the circumstances the Government College of Architecture, Lucknow and the Lucknow University was estopped from asserting that the petitioner did not fulfil the conditions for admission or for being declared successful.

3. Under the facts and circumstances of the case the principle of equitable estoppel was applicable to the present case and hence it was urged by the counsel for the petitioner that the respondents may be directed by a writ of Mandamus to declare the petitioner successful.

4. On behalf of the respondents, however, a counter-affidavit has been filed by Dr. J. K. Mehrotra, Co-ordinator, Admission Committee, M.L.N.R. Engineering College, Allahabad. In para 4 he has specified the minimum qualification for eligibility that was circulated to the candidates in the Information Brochure (Annexure C.A. 1). The said information was only to the effect that in Intermediate Examination with Physics, Chemistry and Mathematics of U. P. Board orequivalent, or even it was stated that the First Year examination of Five Year integrated course in Engineering or of three years degree course with Physics, Chemistry and Mathematics, provided it is university examination. It was the case of the Government College of Architecture, Lucknow and the Admission Committee that it was just by oversight and bona fide mistake that the said information about 55% marks in the Intermediate Examination could not be circulated and could not be mentioned in the Information Brochure. This fact has been stated in para 5 of the counter-affidavit. Hence even later on if the petitioner was informed about the conditions for eligibility there was no mistake and the petitioner was not entitled to the relief claimed. The learned Standing Counsel has also submitted that the petitioner was not entitled to be declared successful in the said examination.

5. We have considered the arguments advanced by the counsel for the parties. It is a fact as admitted in the counter-affidavit also that the information about 55% marks in Intermediate Science Examination was not circulated to the candidates including the petitioner and the only information given to the petitioner and other candidates was that the candidates should have passed Intermediate Examination with Physics, Chemistry and Mathematics as stated in the Brochure (C.A. 1). If any information has been circulated later on the petitioner was not bound by it. The petitioner having been admitted to the examination and having been allotted Roll No., cannot be declared to be not eligible. The petitioner has also furnished his marks of Intermediate Examination and also of the B.Sc. Examination with

Physics, Chemistry and Mathematics. It is worth mentioning that the petitioner has secured 55% marks in B.Sc. Examination (with Physics, Chemistry and Mathematics) from the Allahabad University. Under the circumstances, the respondents including the Government College of Architecture Lucknow, Lucknow University and the Admission Committee M.L.N.R, Engineering College, Allahabad and other respondents were estopped from refusing admission to the petitioner to B.Arch. Course. The view that we are taking also finds support from two Division Bench Decisions of this Court reported in Kazi Hasan v. State of U. P., 1981 UPLBEC 498 and in Satish Kumar v. Secy., Board of High School & Intermediate Education, U. P., 1981 UPLBEC 491.

6. In view of the admission made above about petitioner being selected by the Admission Committee it was no longer open to deny it at a subsequent stage when the petitioner appeared for interview on 19-7-84 that the petitioner could not be selected as he did not secure 55% marks in the Intermediate Examination. The petitioner has submitted his marksheet which contains marks obtained by him in his Intermediate Examination and also in his B.Sc. Examination. It was open to the Admission Committee or other respondents to have examined the details of the marks obtained by the petitioner in I.Sc. B.Sc. Examination and to ascertain it at that stage as to whether the petitioner could be eligible for the said examination or not. When the petitioner was permitted to appear in the examination and was declared successful, at the subsequent stage when the petitioner appeared for interview on 19-7-84 it was not open to the contesting respondents to say that the petitioner could not be selected as he did not obtain 55% marks in his Intermediate Examination.

7. It has also been urged by the counsel for the respondent that only six seats were available and by the time the petition is being decided on merit, there may not be available any seat. But we are of the opinion that as the six seats belong to the candidates of Backward class, hence they should have been filled up only by the candidates belonging to the backward class. We are convinced by the facts that even in the Information Brochure there was no such condition laid down that the petitioner can be entitled for admission only if he secured 55% marks in the Intermediate Examination. This is also a fact that even though the petitioner has

received less marks than 50% in the Intermediate Examination, but he certainly secured 55% marks in the B.Sc. Examination with Physics, Chemistry and Mathematics. We are of the view that injustice has been done to the petitioner on account of the mistake, may be bona fide or by oversight on the part of the respondents.

8. We are accordingly of the view that the petitioner should be declared successful for admission to B.Arch. Course of 1984-85. It is such a case which requires special attention of the respondents including that of the Coordinator of the Admission Committee, M.L.N.R. Engineering College, Allahabad and the Govt. College of Architecture, Lucknow and also the Lucknow University to make available one seat for admission of the petitioner. Under the circumstances of the case we direct the respondents including the Lucknow University, Government College of Architecture, Lucknow and the Admission Committee, M.L.L.N.R. Engineering College, Allahabad to make one seat available to the petitioner immediately. In case there appears any difficulty, for which we see no reason, in that event necessary orders for extension of one seat from the Govt. may be obtained and the petitioner should be admitted. The addition of one seat would not be difficult in the circumstances of the case.

9. In view of the discussion made hereinbefore, we allow the writ petition and direct the respondents to declare the petitioner successful for B.Arch. Course of 1984-85 and the respondents including the Lucknow University, Government College of Architecture, Lucknow and the Admission Committee, M.L.N.R. Engineering College, Allahabad are directed to admit the petitioner immediately after the receipt of the certified copy of this judgment. There shall, however, be no order as to cost.

10. A copy of this judgment may be given to the petitioner within three days on payment of usual charges.