

Midhun Vs. State of Kerala and ors.

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Court : Kerala

Decided On : Oct-30-2006

Reported in : 2008(1)KLJ51

Judge : S. Siri Jagan, J.

Appeal No. : W.P.(C) No. 26354 of 2006

Appellant : Midhun

Respondent : State of Kerala and ors.

Advocate for Def. : Pramod, G.P. and; V.A. Muhammed, Adv.

Advocate for Pet/Ap. : J. Om Prakash, Adv.

Judgement :

S. Siri Jagan, J.

1. The petitioner is a Diploma holder in engineering, who passed the Diploma course conducted by the Board of Technical Examinations, Bangalore. He applied for admission to the B.Tech course in Kerala through the lateral entry system whereby the candidates who have passed diploma can directly be admitted to the 2nd year of the B.Tech course. According to the petitioner, he passed the common entrance examination conducted as per Ext. P2 prospectus. He has also 60 per cent marks for 5th and 6th semester examinations together. Therefore, according

to him, he is eligible for admission as per Clause 4 of Ext. P2. However, he has not been given admission. Therefore, he has approached this Court seeking a direction to the 5th respondent to give admission to the petitioner in the lateral entry stream as per Ext. P3 rank certificate.

2. The learned Government Pleader would submit that Clause 4 of Ext. P2 has been introduced in terms of Clause 11(c) of the Rules and Regulations of Diploma Course under the State Board of Technical Education, Kerala State. As per this, the total marks for 2nd and 3rd year shall be considered to classify successful candidates, i.e. both marks of 2nd and 3rd year would be added and the percentage of marks out of 2800 worked out on the basis of which classification of first class with distinction (75% and above marks) first class (between 60% and 75%) and second class (below 60%) would be made. According to the Government Pleader, going by the same 60 per cent of the total of 2nd and 3rd year marks would be the eligibility criteria for the purpose of Clause 4.

3. On the other hand, the counsel for the petitioner would submit that the curriculum of the Bangalore course is totally different from that of the Kerala course and they have semester system. As far as they are concerned, 60 per cent marks would-be calculated taking into account the marks for 5th and 6th semester examinations, which the petitioner has got. Therefore, the petitioner has passed his diploma with 60 per cent marks as stated in Clause 4.1 in Ext. P2 and therefore he is eligible to be given admission as per the rank list published in the entrance examination.

4. I have considered the rival arguments in detail.

5. The eligibility criteria for admission is prescribed in Ext. P2 prospectus which reads as under:

4. Eligible for Admission.

4.1 Candidates shall have passed Diploma in Engineering awarded by the State Board of Technical Education or equivalent and must have a minimum of 60% marks for the Diploma. The relaxation of 5% marks will be allowed to SEBC

candidates. For candidates belonging to SC/ST community a pass in the qualifying examination will be sufficient.

The same only says that candidates should have passed diploma in engineering awarded by the State Board of Technical Education or equivalent and must have a minimum of 60% marks for the Diploma. Therefore, going by Clause 4.1 any person who has passed diploma with 60 per cent marks is eligible for admission in accordance with the rank he obtained in the entrance examination. The Clause on which the Government Pleader relies on, is Clause 11 of Rules and Regulations of Diploma under the State Board of Technical Education, Kerala State, which reads thus:

11. Classification of successful candidates:

a) Candidates shall be declared to have passed the diploma course only if he/she has secured a pass in all the theory subjects in the 1st, 2nd and 3rd years of study.

b) There will be 3 classes of passed candidates namely,

First Class with distinction

First class and

Second Class

Going by the above, the first class to be awarded to the diploma holders would be decided if the candidate has 60 per cent marks by adding 2nd and 3rd year marks together. Therefore, for the purpose of Kerala students, the curriculum requires that for becoming eligible to pass diploma with 60 per cent (1st class) they should have secured 60 per cent in 2nd and 3rd year examinations put together. On the other hand, in so far as the petitioner is concerned, he would be declared as passed in the diploma examination in first class (60 per cent) if he secures a total of 60 per cent in 5th and 6th semester examinations. Since the petitioner has applied pursuant to his qualification obtained under a totally different curriculum in an examination conducted by a Board of Technical Examinations in a different

State going by Clause 4.1. of Ext. P2 prospectus, I am of opinion that the petitioner would be entitled to be qualified for admission, if he secure 60 per cent marks as per the curriculum prescribed for his examination. Admittedly the petitioner does possess that qualifications. Although going by the Kerala Rules, wherein for the purpose of 60 per cent marks in 2nd and 3rd year examinations are put together, he may not qualify since Clause 4.1 does not specifically require that 60 per cent marks stated therein should have been secured by adding both 2nd and 3rd year marks together since Clause 4.1 requires only pass in the diploma with 60 per cent marks and Clause 4.1 does not even refer to the Kerala Rules as quoted above, I am of opinion that the petitioner is certainly qualified for lateral entry admission as per Ext. P2 prospectus.

6. In the above circumstances, there would be a direction to the 5th respondent to give admission to the petitioner in accordance with his rank in the entrance test in the management quota for which he has applied for.

7. Writ petition is disposed of as above.