

Sajna Devi Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Jan-30-2003

Reported in : RLW2003(2)Raj737; 2003(2)WLC390; 2003(1)WLN452

Judge : B.S. Chauhan, J.

Appeal No. : S.B. Civil Writ Petition No. 2460 of 2002

Appellant : Sajna Devi

Respondent : State of Rajasthan and ors.

Advocate for Def. : Arun Bhansali, Adv.

Advocate for Pet/Ap. : Ranjeet Joshi, Adv.

Disposition : Petition dismissed

Judgement :

Chauhan, J.

1. This petition has been filed for issuing direction to the respondents to admit the petitioner in the A.N.M. Training Course (Mahila Swastiya Karyakarta Prashikshan) in OBC category in pursuance of the advertisement dated 27.9.2001.

2. The facts and circumstances giving rise to this case are that the petitioner applied for admission in the said course in pursuance of the said advertisement

dated 27.9.2001 (Annx. 1) in General Category though she belongs to OBC category. Subsequently she was called for counselling vide letter dated 5.1.2002 (Annx.6) on 22.1.2002, but was not admitted to the said course. Subsequently, she had been making representations to consider her candidature in OBC category as certain seats of that category were lying vacant. As the respondents did not pay any heed, hence this petition.

3. Mr. Ranjeet Joshi, learned counsel for the petitioner has submitted that undoubtedly petitioner had applied, in pursuance of the said advertisement, in General Category but as she belongs to OBC category and an option had been given to her to change the category vide letter dated 5.1.2002 by which she was called for counselling and the seats are still lying vacant in that category, respondents cannot deprive her of her legitimate right of admission.

4. On the other hand, Mr. Bhansali, learned counsel for the respondents has submitted that petitioner had applied in pursuance of the said advertisement in General Category; she had not been given the option for change of the category; the said letter dated 5.1.2002 merely provides to bring the certificates etc. if a candidate belongs to reserved category, moreover, as the course started more than a year ago, this Court should not issue a direction to admit a candidate at such a belated stage and as such the petition is liable to be rejected.

5. I have heard the learned counsel for the parties and perused the record.

6. Admittedly, the tenure of the course is 18 months and the course had started more than a year ago. In *Dr. Subodh Nautiyal vs. State of U.P. & Ors.*, the Hon'ble Supreme Court held that in any training or technical course, once the classes have started, the court should not issue direction for admission in the mid of the academic session. The Apex Court held that in a technical course, to admit a student after four months of commencement, would not at all be justified.

7. Same view was reiterated in *Dr. Pramod Kumar Joshi vs. Medical Council of India, State of U.P. vs. Dr. Anupam Gupta and Medical Council of India vs. Madhu Singh & Ors.*, in which the Apex Court held that in order to maintain excellence it is not permissible to permit admission in the mid of academic session for the

reason that the student could have no opportunity to study the full course to reach his excellence or come at par excellence. Admission in the mid term would disturb the course and also work as a handicap to the student himself to achieve the excellence.

8. In *State of Punjab vs. Renuka Singla*, the Hon'ble Supreme Court disapproved the orders passed by various High Courts issuing directions for admission of the student after commencement of the courses.

9. Thus, in view of the above, the legal position emerges that it is not permissible for the courts to issue direction for admission in the mid of the academic session as the candidate would not be able to complete the course and achieve the excellence.

10. As the course commenced more than a year ago, granting relief to the petitioner at such a belated stage is not permissible.

11. The petitioner is guilty of delay and laches. I find no force in the submission made by Mr. Joshi that the petitioner had been making representations to the concerned Authority repeatedly in spite of the fact that she had been refused admission just after counselling. It is settled proposition of law that once an order has been passed finally, a party aggrieved must approach the court as making repeated representations cannot be an explanation for the delay and laches. A Constitution Bench of the Hon'ble Supreme Court, in *Rabindra Nath Bose & Ors. vs. Union of India & Ors.*, while dealing with the similar issue, has held as under:-

'Said could not have been the intention that this Court would go into stale demands after a lapse of years. It is said that Article 32 is itself a guaranteed right. So it is, but it does not flow from this that it was the intention of the Constitution makers that this Court should discard all principles and grant relief in petitions filed after inordinate delay. If the Government has turned down one representation, making of another representation on the similar lines would not enable the petitioner to explain the delay....'

12. In view of the above, as petitioner is guilty of delay and laches as petition has been filed after more than a year of commencement of the course, the duration of which is only eighteen months. Petitioner claimed relief in a category (OBC) in which she had never applied and as she failed to substantiate her averments, no interference is called for.

13. The petition is devoid of any merit and accordingly dismissed.

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