

Sunil Kumar Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Jul-16-1991

Reported in : 1991(2)WLN52

Judge : Inder Sen Israni, J.

Appeal No. : S.B. Civil Writ Petition No. 3897 of 1989

Appellant : Sunil Kumar

Respondent : State of Rajasthan and ors.

Disposition : Petition allowed

Judgement :

Inder Sen Israni, J.

1. This petition has been filed with a prayer to direct the respondents to give admission to the petitioner, who holds qualification of Secondary in Part-I of Diploma in Pharmacy Course and quash-the qualification of Higher Secondary mentioned in the advertisement in Anx. 2. dated 27.8.1989.

2. Briefly stated, the petitioner passed Secondary School Examination in 1981 from Board of Secondary Education, Rajasthan, Ajmer, with optional subject of Physics, Chemistry and Biology. He got second division. The marks sheet is marked as Anx. 1. An advertisement dated 27.8.89 (Anx. 2) was issued, by which,

applications for admission to diploma in Pharmacy Course were invited for the year 1989-90. In this advertisement, minimum qualification prescribed, apart from other things was higher secondary examination. It is contended by Shri Sharma learned Counsel that the qualification prescribed in the advertisement are against the provisions of Clause 3 of Education Regulations 1981 (for brevity 'the Regulations') for diploma course in Pharmacy, which are framed under Section 10 of the Pharmacy Act, 1948 (for brevity 'the Act'). It is submitted that the required qualification is metric and petitioner is entitled to get admission in the said course.

3. I have heard learned Counsel for both the parties, and gone through the documents on record.

4. The qualifications for admission in course of diploma in Pharmacy are not prescribed by any State authority but are governed by the Pharmacy Act. Under the provisions of Section 10 of the said Act the Regulations are to be prescribed for minimum education qualification etc. for the above course which has to be approved by the Central Government. It will be desirable to extract clause-3 of the Regulations which is reads as under:

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-I) 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; of

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

A bare reading of the clause extracted above, shows that the minimum qualification required for admission in course of Diploma in Pharmacy, is matriculation/high school examination/secondary school leaving certificate. The petitioner does possess the certificate of secondary examination, which he passed in the year 1981. The Technical Education Board of Rajasthan under whose

authority, the advertisement Anx. 2 was issued had no authority to change qualification or alter the qualification prescribed under the Regulation, which have been approved by the Central Government and are applicable throughout the country.

5. In the result, the requirements of Higher Secondary Certificate as demanded in Anx. 2 is quashed and set aside as it has been prescribed without authority of law. The petitioner has been already given provisional permission by order of this Court dated September 27, '89 and is continuing his studies. The petitioner does possess the required qualification and it is, therefore, directed that he is entitled to continue the study of course of diploma in Pharmacy.

6. The writ petition is allowed as above, with no order as to costs.

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