

Dinesh Kumar Vs. Jai Narain Vyas University and ors.

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Court : Rajasthan

Decided On : Oct-31-2002

Reported in : 2003(2)WLC705; 2003(2)WLN487

Judge : Sunil Kumar Garg, J.

Appeal No. : S.B. Civil Writ Petition No. 3734 of 2002

Appellant : Dinesh Kumar

Respondent : Jai Narain Vyas University and ors.

Disposition : Petition dismissed

Judgement :

Sunil Kumar Garg, J.

1. This writ petition under Article 226 of the Constitution of India has been filed by the petitioner on 24.9.2002 against the respondents with the prayer that by an appropriate writ, order or direction, the respondents be directed to give admission to the petitioner in M.Sc. (Chemistry) Previous for the Session 2002-2003.

2. The case of the petitioner as put forward by him in this writ petition is as follows:

The petitioner, who is member of Scheduled Caste category, completed his B.Sc. degree from Maharishi Dayanand Saraswati University, Ajmer as regular student

of S.B. Kothari Government College, Jaisalmer in the year 2002 and obtained 1247 marks out of 2025 marks, which is 62 per cent marks. Thus, the petitioner secured first division in B.Sc. and a copy of the mark-sheet of B.Sc. is marked as Annex. 1.

The respondent No. 1 Jai Narain Vyas University, Jodhpur (for short 'the University') has issued the prospects for admission in various classes for the Session of 2002-2003. In this sequence, Science Faculty for admission in M.Sc. (Chemistry) published 40 seats in previous M.Sc. (Chemistry) and the categorization of the seats is as under:

Scheduled Caste Students 6 Scheduled Tribes Students 5 Other Backward Classes 8 General candidates 19 Handicapped 1 Sports 1 Total: 40 For 40 seats, applications were invited by the respondent No. 1 University.

The petitioner being desirous of getting degree of M.Sc. submitted his application with full particulars and documents in the office of the respondent No. 3 Dean, Faculty of Science before due date i.e. 2.8.2002, in the category of Scheduled Caste candidate.

The further case of the petitioner is that after scrutiny, a list was published on the Notice Board showing the names of students, who were found eligible for counselling which was to be held on 2.8.2002 and in the list of counselling, the name of petitioner stood at serial No. 2 in the waiting list. According to the petitioner, some students were absent on 2.8.2002 and when absentee students raised objections, the respondent No. 1 University, re-organised the counselling for 7.8.2002, but on that day, counselling did not take place and it was postponed for 13.8.2002.

The further case of the petitioner is that on 13.8.2002, re-counselling was made in which the petitioner and other students participated, but the list of selected candidates was changed and the name of the petitioner was shown at serial No. 6 of the waiting list.

The further case of the petitioner is that on 13.8.2002, some students were not present and thus, the counselling was again declared to be held on 19.8.2002 and 26.8.2002. Since one Vinod Chouhan was not present and two students of Scheduled Caste category went in M.Sc. (Botany), therefore, two seats were left open for the students of Scheduled Caste category, but the respondents deliberately did not give admission to the petitioner. Hence, this writ petition with the prayer as stated above.

The main grounds taken by the petitioner in this writ petition are as follows:

- (i) That the action of the respondents in not giving admission to the petitioner in M.Sc. (Previous) (Chemistry) tantamounts to hostile discrimination and is violative of Article 14 of the Constitution of India.
- (ii) That since the petitioner participated in the counselling on all occasions, but due to absence of other students, the petitioner was harassed to appear in counselling time and again and thus, he was eligible for admission in M.Sc. (Previous) (Chemistry).

A reply to the writ petition was filed by the respondents, in which preliminary objections were taken by them in the following manner:

- (i) That in academic matters, the petitioner should not be allowed to invoke extraordinary writ jurisdiction under Article 226 of the Constitution of India.
- (ii) That apart from this, the petitioner has not pleaded violation of any law or rules while considering the applications for admission by the University and, therefore, in absence of that, the petitioner cannot seek remedy of admission under Article 226 of the Constitution of India.
- (iii) That in admission matters, the decision of the Expert Committee should not lightly be interfered with unless there is malafide on the part of the respondents and this mala fide has not been alleged or proved by the petitioner in this case and thus, from this point of view also, this writ petition is not maintainable.

On merits, it was submitted by the respondents that a provisional list was published on 2.8.2002, a copy of which is marked as Annex. R/2 and in that list, the name of the petitioner stood at serial No. 2 in waiting list. However, because of the grievances made by the students against the counselling which took place on 2.8.2002, a Committee of two Teachers was constituted by the respondent No. 3 Dean, Faculty of Science on 3.8.2002 and in the meanwhile, the admissions for four students were kept in abeyance. The said Committee examined the record of entire admission process and thereafter, submitted a report to the Vice-Chancellor. The Vice-Chancellor directed to revise and notify a fresh waiting list of candidates according to merit, which should include all the names of candidates who stood below the last admitted applicant in each category.

The further case of the respondents was that a fresh list was issued by the University and the petitioner stood at serial No. 6 of revised waiting list for Schedule Caste candidates of M.Sc. Previous-I Semester Chemistry, a copy of which is marked as Annex. R/3. Since the petitioner belonged to Scheduled Caste category, therefore, he was not considered for admission in general category. As the petitioner stood at serial No. 6 in the waiting list and the admissions were given upto Ashok Pangi, who stood at serial No. 3 of the waiting list, therefore, there were two more students at serial Nos. 4 and 5 before the petitioner and since they have not been given admission, giving of admission to the petitioner does not arise at all. Hence, the writ petition filed by the petitioner be dismissed.

A rejoinder to the reply was filed by the petitioner on 29.10.2002.

3. I have heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondents and gone through the materials available on record.

4. Before proceeding further, some thing should be said about the scope of interference by the High Court under Article 226 of the Constitution of India especially while dealing with education matters.

5. The Courts have generally set certain limitations and self-imposed restrictions on the exercise of their discretionary power under Article 226 qua the decisions of

academic bodies; the Courts have consistently kept their hands off the high academic bodies unless flagrant violation of fair play based on bias or mala fides is established.

6. The Courts in exercise of their writ jurisdiction are reluctant to interfere in the exercise of discretion of the educational authorities in the absence of strong reasons like contravention of law or statutory regulations governing the admissions.

7. The High Court's power are limited when it is called upon to deal with the decisions of autonomous bodies like a University/educational institution; the questions that arise before them in the course of day to day or other functions are better left to their sole decision. The High Court is not a Court of appeal; its powers are confined only to seeing that the hedges of law are not over-stepped.

8. Thus, from the above discussion, it appears that discretion exercised by the University/Educational institution should not be interfered with by this Court under Article 226 of the Constitution of India unless there is a patent and undoubted violation of a provision in the statute or regulation or ordinance, governing the particular subject or the decision is based on malafides or bias with the petitioner is established.

9. Furthermore, in matters relating to the internal working of an educational institution (say the matter of admission) and academic matters, the Court will not interfere unless the act complained of is clearly beyond jurisdiction, or contrary to the statute, rules or regulations governing the institution or there is a statutory duty which the authority has failed to perform or the impugned act is mala fide or where the discretionary power to select candidates for reserved seats is exercised without any norms or regardless of their merit.

10. In the present case, there is no dispute on the point that the petitioner has not alleged or proved that the respondent No. 1 University has violated any provision of law or statute or rule governing admission, while making admissions and in absence of that, this Court should not interfere with the admissions made by the respondent University.

11. Furthermore, if the respondents appointed a Committee of Experts and if, on the basis of the report submitted by the Committee after examining the entire record of admission process, prepared the waiting list in the shape of Annex. R/3, which belongs to Scheduled Caste category for admission of M.Sc. (Previous) (Chemistry) and in that list, the petitioner stood at serial No. 6, it cannot be said that the respondents have intentionally put the petitioner at serial No. 6 in the waiting list. It also cannot be said that the said Committee was constituted only to defeat the case of the petitioner, but it was formulated to take decision at large, taking into consideration all aspects and cases of all concerned students.

12. Apart from this, since from the reply of the respondents, it is also clear that even persons, who stood at serial Nos. 4 and 5 before the petitioner in the waiting list, have not been given admission, therefore, when this being the position, the question of giving of admission to the petitioner, who stood at serial No. 6, does not arise at all.

13. Thus, in the above circumstances, it cannot be said that the discretion exercised by the concerned authorities of the respondent No. 1 University in not giving admission to the petitioner, was mala fide or arbitrary or in violation of the statute or ordinance or rules & regulations governing the admissions and in absence of that, the petitioner is not entitled to any relief under Article 226 of the Constitution of India.

14. For the reasons stated above, there is no merit in this writ petition and the same is liable to be dismissed.

Accordingly, this writ petition filed by the petitioner is dismissed. No order as to costs.