

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7286 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SURESH KUMAR MANACKEL

Versus

GUJARAT UNIVERSITY

Appearance:

MR JD AJMERA for Petitioner

MR SN SHELAT for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER

Date of decision: 01/03/94

ORAL JUDGEMENT

"The petitioner has approached this Court for an appropriate writ, direction or order directing the respondent authority to grant eligibility certificate to him on the basis that he has graduated from recognised University and for a direction to give him admission in LL.B. course to pursue his studies in that course.

It is the case of the petitioner that he obtained degree of B.Com.(External) from Osmania University, Hyderabad in the year 1991. The duration of the degree course was two years. The intention of the petitioner is to get admission at Law College at Bhuj (Kutch) in Gujarat. He approached the Gujarat University (respondent herein) for issuing necessary eligibility certificate in his favour. The application was not entertained by the respondent University on the ground that the graduation degree of two years as completed by the petitioner from Osmania University, Hyderabad is not treated as "an Examination of any other University recognised as equivalent" and hence no eligibility certificate can be granted in his favour and he cannot be treated as eligible to get admission in LL.B. Course.

The learned Advocate for the petitioner strenuously argued that it is not in dispute that the petitioner is a graduate. It is also not in dispute that he has completed the said course and obtained degree of B.Com. (External) from Osmania University, Hyderabad. He also submitted that the said University is a recognised University. If the above conditions are satisfied, there is no any valid or justifiable reason for the respondent University to refuse admission to the petitioner in LL.B. Course. Relying on Ordinance No.1 of the respondent University and on a decision of the High Court of Allahabad in the case of Kum. VANDANA TIWARI VS. ALLAHABAD UNIVERSITY, reported in AIR 1991 Allahabad page 250, it was submitted that the classification based on two years degree and three years degree course was arbitrary and violative of Article 14 of the Constitution of India. Once a person gets a degree, he/she cannot be denied admission on the basis of the said degree merely on the ground that the degree course completed by him/her was of two years and not of three years. He, therefore, submitted that the action of the respondent University is required to be declared as illegal by directing it to give admission to LL.B. Course.

Notice was issued by this Court to the respondent University pursuant to which the respondent University appeared and an affidavit-in-reply filed by the Registrar of the University. It was stated in the affidavit that for admission to LL.B. Course of Gujarat University, "the student must have passed Bachelor's Degree Examination of the Gujarat University or any other equivalent examination of other statutory Universities". It was stated that the petitioner claims eligibility certificate on the basis of his having passed B.Com. from Osmania University, Hyderabad, which is not

considered to be an Examination of B.Com. passed by the petitioner equivalent to such examination of the Gujarat University. It was submitted that while determining the equivalence of the degree, the duration, nature and content of the course is required to be considered and the Academic Body of the respondent University had resolved that a student who has passed graduation with a pattern of 10+1+3 or 10+2+2 should not be considered to have passed equivalent examination of respondent University. In the State of Gujarat, all the Universities have, adopted uniform practice of 10+2+3 i.e. 15 years study and the petitioner having not undertaken duration of studies for graduation for 3 years, he was not treated as eligible of getting admission to LL.B. Course. The learned Counsel for the respondent University contended that even if Osmania University is treated as recognised University, it is not sufficient for getting admission to LL.B. Course. The petitioner must have passed Bachelor's degree examination in that faculty which must have been recognised as "equivalent course". Reliance was also placed on the decision of the Hon'ble Supreme Court in the case of RAJENDRA PRASAD VS. KARNATAKA UNIVERSITY AIR 1986 SC 1448. Almost an identical question arose in that case. It was contended that if student passed the examination and gets degree from Karnataka, he must be treated as eligible to get admission on the basis that he had been graduated from a recognised University. The Hon'ble Supreme Court, however, held that examinations passed by students from Rajasthan being not recognised as equivalent to examinations passing of which constituting basis of admission to Karnataka University, such students cannot get admission on that basis. This Court is not bound by the decision of the High Court of Allahabad in Kum. Vandana Tiwari's case (supra). The ratio laid down by the Hon'ble Supreme Court in Rajendra Prasad's case (supra) squarely covers the field.

Again, looking to the ordinance of respondent University, it cannot be said that the petitioner is entitled to get admission to LL.B. Course. The relevant phrase is not recognised university" but that such candidate must have passed Bachelor's degree examination in any faculty of this University or an examination of any other University "RECOGNISED AS EQUIVALENT THERETO." Since the degree obtained by the petitioner from Osmania University is not recognised as EQUIVALENT to the Bachelor's degree of Gujarat University, it cannot be said that by not treating petitioner as ineligible to admission to LL.B. Course, any illegality has been committed by the respondent University. I do not find any

substance in the argument of the learned Advocate for the petitioner and the petitioner's application is required to be dismissed. Accordingly this petition is dismissed with no order as to costs. Notice is discharged."

(C.K.THAKKAR J.)