

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12089 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR (Sd/)

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
  2. To be referred to the Reporter or not? Yes
  3. Whether Their Lordships wish to see the fair copy of the judgement? No
  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? No
  5. Whether it is to be circulated to the Civil Judge? No

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BHATT NAMRATA ANANTRAI

Versus

STATE OF GUJARAT & 4 ORS

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Appearance:

MS MAMTA R VYAS for Petitioner  
Mr S N Shelat, Advocate for the respondents  
Mr Y M Thakkar. AGP for the State

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/01/95

ORAL JUDGMENT

This Special Civil Application has been filed seeking direction to the respondent-authorities particularly, respondent No. 3, i.e. L.D. Engineering College, Ahmedabad to give admission to the petitioner to

Degree Course in Pharmacy according to his marks.

2. The short question involved in the present Special Civil Application is as to whether it is obligatory on the part of the respondent-Director of Technical Education to wait for admission to First Year Course of Diploma in Engineering and Pharmacy till the result of Diploma Course in Engineering and Pharmacy Colleges in the entire State of Gujarat are declared.

3. The Department of Technical Education issued an advertisement for admission to Degree Course/Engineering/Pharmacy Courses. The application forms duly filled in were required to be submitted by 16.8.1994 to the Executive Secretary, Central Degree Course Admission Committee, L.D. College of Engineering, Ahmedabad. It appears that admission to the Pharmacy stream is jointly given through two channels-one is from open channel and another is from the successful meritorious students who have completed pharmacy course from various diploma Colleges. 3% of the total seats are reserved for the second category of students i.e. Diploma holders of Pharmacy Courses.

4. The say of the petitioner is that she appeared in the final examination of Diploma in Pharmacy Part II and the results of the said examination was declared as late as on 6.10.1994, as the whole Bhavnagar including Bhavnagar University Campus in which the petitioner's College is situated was under public agitation till 12.9.1994 and there was interruption to the theory and practical examinations. Be that as it may, she passed the examination by securing 85.07% marks in aggregate and in theory paper 87.3% which are required to be considered for admission to degree courses. She says that she stood first in the Bhavnagar University. Immediately after declaration of the result, she went for admission with the mark sheet for getting admission to the Degree Course, but she was told that all the seats are filled in and as such she cannot be given admission. The contention of the petitioner is that the authorities ought to have waited till the result of the college from which she passed the Diploma Course was declared so as to enable the Diploma holders of Bhavnagar University to get admission. It is also contended that no advertisement was issued and no date was fixed as far as admission to the second channel i.e. Diploma holders of the Pharmacy Course is concerned.

5. Respondents No.1 to 5 have filed reply to the show cause notice stating inter alia that as per the

prevailing rules for admission to Degree Course in Pharmacy, 97% of the seats are allotted to those students, who have passed XII standard science stream or equivalent examination from any school situated in the State of Gujarat. It is further stated that different Universities are not declaring results at one time and as such, it is not possible to stop the admission procedure in view of the delay in declaration of the results by any one of the Universities. As the results were declared by all other Universities, it was not possible to wait for the results of Bhavnagar University as that would have delayed the entire session. Therefore, all those applications were considered which were received before the fixed last date. It is further submitted that 3% are reserved seats and admission against the said seats have already been given and as such there exists no vacancy.

6. It is contended by the learned counsel for the petitioner that in the peculiar facts of the case which prevail at Bhavnagar University, the respondents ought to have waited for filling up the 3% seats reserved for the diploma holders of the Pharmacy Course.

7. It is now well settled that there should be least interference by the Courts in the autonomy of Educational institutions with respect to admission or disciplinary matters, unless the action is unreasonable or arbitrary. In the case of State of U.P. v. D K Singh, reported in AIR 1987 SC 190, the Apex Court ruled that the time schedule of a course of study should be a matter best left to the University and the Court should not dislocate University time-schedule merely for convenience of a few students. Dealing with an identical question with respect to fixing up of the last date for admission, this Court in the case of H B Shah v. Maharaja Sayajirao University, reported in 1993 (2) GLH 691 held as follows:

"It cannot be stated that the date fixed by respondent No.2 is in any way arbitrary or unreasonable. Further because of the cut-off date in any case some hardship may be caused to some persons but that would hardly be a ground for its relaxation. Merely because the petitioner or some other candidate could qualify for getting the admission to the course if the last date for appearing in the examination is shifted from 29th June 1992 to 15th July, 1992 would hardly be a ground for holding that the date fixed by respondent No.2 is in any way arbitrary or irrational."

8. In the present case, the results of all the Universities were declared except of the Bhavnagar University and in that circumstance, a decision was taken by respondent University to proceed with the admission without waiting for the declaration of the result of Bhavnagar University as this would have delayed the session, it cannot be said that the authorities have acted arbitrarily and unreasonably in fixing the cut-off date.

9. It is next contended by the learned counsel for the petitioner that no advertisement was issued and no last date was fixed for filling of 3% vacancies from diploma holders in Pharmacy. A perusal of the advertisement shows that the applications were invited for admission to degree course from both the channels which is evident from the part of the advertisement extracted below:

"Applications in prescribed forms are invited by Committee of Central Degree Course Admissions for the admission into First Year Course of Diploma in Engineering and Pharmacy after standard XII Science Stream held in all Government and Non-Government Colleges (along with self-maintained) of Degree Courses in Engineering and Pharmacy and of Diploma Courses in Engineering and Pharmacy in the State of Gujarat from qualified candidates."

Learned Counsel for the petitioner further contends that this Court, by order dated 17.11.1994, by way of interim relief, directed that in the event of any vacancy arising for the degree course for which the applicants are available, the respondent shall try to accommodate them in accordance with law. In spite of the fact that there are vacancies, the respondents have not accommodated the petitioner. It is stated by the learned AGP that there are 5 seats kept reserved for diploma holders in the second category of admission to the Pharmacy Degree Course and all the 5 seats have been filled in and there is no seat vacant in the second category. He of course states that there are some seats vacant in the general category. He contends that the petitioner cannot be accommodated against the vacancies of the general category as this will amount to expansion of 3% quota reserved for the students of diploma holders. He further submits that there is a waiting list consisting of more than 100 students who have claimed admissions into the said stream.

10. I find substance in the contentions of the learned AGP. In view of the fact that in the first channel, the petitioner cannot be given admission against the vacancies in the first category as the petitioner cannot be said to be senior-most. The petitioner is not in the said waiting list. Even otherwise, she cannot be the senior-most in the said waiting list.

11. Learned Counsel for the petitioner submits that as the other students who might have secured higher marks have not approached this Court, an appropriate direction can be given in favour of the petitioner for accommodating her against the vacancy in the general category. This contention of the petitioner is not sustainable as the allotment of seats should be according to merit and not depending upon who comes to Court and who does not. I am fortified in my view by the decision of the Apex Court in the case of Dr.(Mrs.)Santosh Kumari v. Union of India & ors., reported in JT 1994 (7) SC 565.

12. In the last, the learned AGP states that the entire session is completed, no admission can be given.

13. In view of the aforesaid discussion, there is no merit in this writ petition and the same is dismissed. Rule discharged. The interim relief stands vacated.

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