

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/08/2002

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THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO.10213 OF 2001

and

W.M.P.No.33163,14718 of 2001

and

WVMP.No.520 of 2002

R.B. Dillep .. Petitioners

-Vs-

1. Pondicherry University,
rep. by its Reistrar,
R. Venkataraman Naar,
Kalapet,
Pondicherry 605 014.

2. The Controller of Examinations
Pondicherry University,
Pondicherry 605 104.

3. The Deputy Reistrar (ACA.II),
Pondicherry University,
Kalapet, Pondicherry 605 014.

4. Bharathiyar Collee of Engineering
and Technoloy, rep. by its
Principal, Mandapathur Villae,
Thiruvettakudi, Karaikkal 609 609... Respondents

Petition filed under Article 226 of the Constitution of India for the
issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr. Doraisami
Senior Counsel for
Mrs.Muthumani Doraisami &
Mr. Kandavadivel Doraisami

For Respondents 1-3: Mrs.G. Thilakavathi
For Respondent-4 : No Appearance

J U D G M E N T

This writ petition has been filed to quash the order of cancellation made by the third respondent dated 17.4.2001 and direct the respondents to permit the petitioner to complete the MCA course.

2. Petitioner was admitted during the academic year 2000-2001 in the I year MCA under the fourth respondent college which is affiliated to the first respondent University. It appears that cancellation took place because the petitioner had secured only 51.66% in the group subjects of the qualifying examination, whereas as per the prospectus minimum requirement was 55% marks in the relevant subjects.

3. The petitioner has submitted that in many other Universities like University of Madras, Madurai Kamarajar University, Anna University, etc., a mere pass in the graduation course is sufficient for admission. It is submitted that in Universities like Bharathiyar University, eligibility criteria is 50% and therefore insistence of respondents 1 to 3 that one should have 55% marks in the concerned subjects in the qualifying examination is unreasonable and arbitrary. It has been further submitted that the fourth respondent college has admitted the petitioner after being satisfied with the eligibility condition and such admission should not have been cancelled subsequently without giving opportunity of hearing to the petitioner and the University having allowed the petitioner to appear in the first semester examination, was estopped from cancelling the admission.

4. While seeking to vacate the order of stay, the University has also filed counter wherein it is indicated that since minimum qualifying marks have been prescribed, any admission contrary to such minimum qualifying marks must be taken to be non-est. It is further submitted that the question of estoppel does not arise. Moreover, at the time of permission to the first semester examination all relevant aspects have not been submitted to the University by the fourth respondent college. It is also submitted that since the petitioner had not secured the minimum qualifying marks, the admission had been cancelled and there was no question of following the principles of natural justice.

5. The fact that in certain other Universities no minimum qualifying marks have been prescribed or lesser minimum qualifying marks is prescribed is irrelevant for the purpose of considering the present case. It is well known that every University has its own guidelines and principles relating to the question of admission and the validity of guidelines and principles fixed by one University cannot be judged by applying the guidelines and principles in other Universities.

6. In the present case, it is not disputed even by the petitioner that he has secured only 51.66% marks in the relevant subjects of the qualifying examination and as per the prospectus it has been prescribed that the candidate should have 55% marks in the relevant subjects. Since the petitioner had fallen short of the required qualifying percentage of marks to be obtained, there cannot be any doubt that the admission of the petitioner was improper.

7. Counsel for the petitioner has submitted that principles of natural justice should have been followed. Since the facts were not in dispute then and not in dispute now, the question of complying with the principles of natural justice recedes into background as even if such opportunity would have been given, that would not have changed the situation and the very same conclusion would have been reached by the University. The contention relating to absence of principles of natural justice, therefore, cannot be accepted.

8. Next submission of the learned counsel for the petitioner is on the basis of estoppel. The prospectus which was within the knowledge of the petitioner makes it very clear that it has been prescribed about minimum qualifying marks. Even though admission was given by the College against its own management quota especially with a view to augment its resources, such illegal action was not binding on the University which has its own standard and that standard is to be maintained by all concerned.

9. From the materials on record, it is apparent that when the petitioner was allowed to first semester examination by the University, relevant particulars had not been submitted before the University. Therefore, merely because the petitioner was allowed to appear in the first semester examination does not clothe him with any right to continue the course. The question of estoppel in such circumstances does not arise at all. For the aforesaid reasons, there is no doubt in my mind that the action of the University in cancelling the admission of the petitioner is fully justified.

10. In the present case, the college has chosen not to defend its action. The college should not have admitted the petitioner against the management quota even though the petitioner was admittedly ineligible. Since the admission of the petitioner is ultimately cancelled, the college is required to refund to the petitioner all the fees collected towards admission and other fees except the fees paid towards hostel. In addition to this, the 4th respondent college is directed to pay Rs.5,000/- as compensation to the petitioner. The question may crop up that the petitioner himself being aware of his own ineligibility need not be compensated. The student, in his anxiety might have applied for admission, but the college had the greater responsibility in the matter.

11. Accordingly while sustaining the order of cancellation passed by the University, the writ petition is disposed of with the observation regarding refund of fees and payment of compensation by the college. This order should be complied with by the college within a period of six weeks from the date of communication of the order. There will be no order as to costs.

29-08-2002

Index : Yes

Internet : Yes

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To

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P.K. MISRA, J.

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