

2/10/02

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
(C.G.)

W.P. No. 1764/2002

Petitioner : Ku Sanjukta Biswas
Aged about 27 years
Daughter of G.B. Biswas
C/o Kamal Narsing
Laxmi Sundram Niwas
Dayalband
Bilaspur (C.G.)

VS.

Respondents 1. Guru Ghasidas University
Through the Registrar
Bilaspur (C.G.)

2. State of Chhattisgarh
through the Secretary
Department of Education
DKS Bhawan
Raipur (C.G.)

3. The University of Burdwan
West Bengal,
through the Registrar
Raibali, Burdwan (WB)-713104

4. University Grants Commission
Bahadur Shah Zafar Marg
New Delhi-110002

5. C.M.D. Post Graduate College
Through-Principal
Bilaspur (C.G.)

PETITION UNDER ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF
APPROPRIATE WRITS OF CERTIORARI/MANDAMUS
ETC.DIRECTIONS

1. PARTICULARS OF THE PETITIONER:



RECEIVED COPY
BILASPUR

उक्त न्यायालय, कलकत्ता, बिहार

(17)

आदेश प्रक
सं.प.नं. 1767/2002
भाषा कमांक
पृ 200

विषय

आदेश का दिनांक आदेश क्रमांक सहित	आदेश द्वारा सहित	कार्यालयीन मामला में दिदी रिजट्स के अतिरिक्त आदेश
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DB. Hon'ble Justice Fakhruddin, Ag.C.J.
& Hon'ble Justice L. C. Bhaddo, J.
15.5.2004
Petitioner by Shri Sandeep Dubey, Advocate.
Respondent No.1 by Shri Manindra Shrivastava, Advocate.
Respondent No.2 by Shri Shashank Dubey, Deputy Advocate
General.
Respondent No.3 by Vinay Harit, Advocate.
Respondent No. 4 by Shri Pankaj Shrivastava, Advocate.
Heard.
The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India questioning the decision of the Respondent No.1 refusing to issue eligibility certificate.
The case of the petitioner is that she had her education in the State of West Bengal, after passing the 10+2 Senior Secondary School Examination, petitioner got admission in B.Sc. Part-I honours course in the University of Calcutta. After completing second year B.Sc. honours course the petitioner having not secured required qualifying marks for admission in B.Sc. Part-III examination in Calcutta University, she got admission in One Year Post B.Sc. Application Oriented Course in Science in the University of Burdwan (West Bengal) where she passed out the said examination and his certificate to that effect was issued on 10.1.2002 by the Burdwan University. As the petitioner has passed One Year post B.Sc. Application Oriented Course in Science, that is why the decree of the petitioner became equivalent to 10+2+3 pattern course. This one year's

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

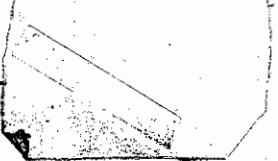
आदेश पत्रक

1764/2002

मामला क्रमांक

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>course was recognized by the University Grant Commission, State of West Bengal and the Union of India and the certificate to this effect is Annexure P/2, and further the respondent No.3 i.e. Burdwan University issued a certificate Annexure P/3 and the mark sheet Annexure P/4. On the strength of these certificates the petitioner applied for admission in M.Sc. (Previous) Botany in C.M.D. College, Bilaspur and the said college/Respondent No.5 admitted the petitioner in the said course. Thereafter the petitioner made a request to the University for grant of an eligibility certificate in her favour and in the meantime the petitioner passed the M.Sc.(Previous) in the month of May-June 2002. However, the Respondent No.1 wrote a letter Annexure P/8 to the petitioner that the eligibility certificate cannot be granted; against which the petitioner submitted a representation Annexure P/9.</p> <p>It has been prayed by the petitioner that if the respondent No.1 is not directed to issue eligibility certificate then an irreparable loss will be caused to her. Even in accordance with the Section 6 of the M.P. Vishvidyalaya Adhiniyam, 1973 the Respondent No.1 has framed its Ordinance regulating admissions belonging to other universities according to which a candidate who after having obtained Bachelors Degree in any discipline of the University or of any Statutory University in India or an equivalent examination recognized by the University for the purpose shall be eligible to be admitted to the regular course of study in a University Teaching Department or an Institute/College recognized by the University for the purpose. By not recognizing the degree obtained from the Burdwan University the respondent No.1 has acted in excess of jurisdiction whereas</p>	

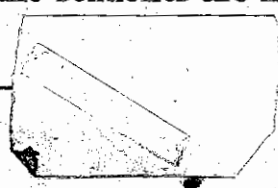
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	<p>the Respondent No.1 ought to have referred the case of the petitioner to the U.G.C. for adjudication. Ultimately, it has been prayed that the respondent No.1 University be directed to issue eligibility certificate and to quash the impugned decision of the University Annexure P/8 and to direct the respondent No.1 to recognize the petitioner's degree as equivalent to the B.Sc. Degree.</p> <p>Return has been filed on behalf of the Respondent No.1 in which it has been stated that the admission sought by the petitioner in M.Sc. (Previous) was given by the C.M.D. College/Respondent No.5 contrary to the instructions issued by the University both general and special without having obtained the eligibility certificate. The application to issue eligibility certificate was made almost after four months of getting admission. It was processed and after due consideration and after correspondence with the Calcutta University and after taking into consideration the decision of the Academic Council it has been found that the course undergone by the petitioner in other University cannot be treated equivalent to 10 + 2 + 3 system. The petitioner after passing the B.Sc. Part-II from the Calcutta University did not take admission in B.Sc. Part-III rather she did One Year Post B.Sc. Application Oriented Course in science and the petitioner's claim that after completing said course she has become equivalent to 10+2+3 is not correct. The C.M.D. Post Graduate College ought to have applied for grant of eligibility certificate before giving admission to the petitioner but without following that procedure the petitioner was admitted contrary to the University guidelines. The University also enquired from the Calcutta University from where it is informed that in such cases the students are not</p>	

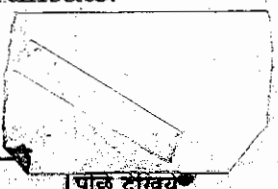
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	<p>treated eligible for admission to Post Graduate course of the University. No fundamental rights of the petitioner is infringed and the petition of the petitioner be dismissed.</p> <p>We have heard learned counsel for the parties.</p> <p>Learned counsel for the petitioner submitted that the University Grants Commission has prescribed the norms regarding Admission. The second proviso to norm 8.2 envisaged that "as a transitory measure where the universities are unable to change over to a three year degree course, they may award a B.A./B.Sc./B.Com. (Pass) degree on successful completion of two year course, but that no student of this stream shall be eligible for admission to the Master's course unless he has undergone further one year bridge course and pass the same. The three year degree course after 10+2 stage should in no case be terms as B.A./B.Sc./B.Com. (Pass) degree."</p> <p>Therefore, in view of the above norms of the University Grant Commission the petitioner after passing the B.Sc. Part-II examination from the Calcutta University, took admission in One Year Post B.Sc. Application Oriented Course in Science and thus she has passed one year's bridge course. Therefore as per the above norms the Respondent No.1 ought to have granted the eligibility certificate to the petitioner. He further argued that the petitioner was given admission by the Respondent No.5 in the M.Sc. (Previous), and now under the orders of this Court the petitioner has already appeared in M.Sc. (Final) examination and more over the petitioner has not sought any admission on any forged or fake certificate.</p>	

पाठ देखिये

(121)

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	<p>Learned counsel further argued that having regard to the second proviso of norm 8.2 extracted above, the respondent No.1 University be directed to grant the eligibility certificate and declare the result of M.Sc. (Previous) and M.Sc. (Final) otherwise the whole career of the petitioner will be in jeopardy, without there being any fault on her part and her this year will go in waste.</p> <p>On the other hand Shri Manindra Shrivastava, learned counsel for respondent No.1 argued that in the first instance the petitioner took admission in B.Sc. Honours in Calcutta University and passed up to B.Sc. Part-II examination, however without passing the B.Sc. Part-III Honours examination the petitioner took admission in one year bridge course in Burdwan University which has not been recognized by the Respondent No.1 University and that bridge course was introduced as a transitory measure till the University switches over to 10+2+3 year course. Therefore, the petitioner is not entitled to the relief asked for.</p> <p>We have considered the rival arguments of learned counsel for the parties. It is admitted position that the petitioner after passing the B.Sc. Part-II examination from the Calcutta University passed one year bridge course from Burdwan University and as per the second proviso of norm 8.2 of the University Grants Commission in order to complete the deficiency if any candidate after passing B.Sc. Part-II examination, can complete one year bridge course then she or he shall be entitled for admission to the M.Sc. It is true that as per the Academic Council of the Respondent No.1 they have not recognized this course but if we look into the decision of the Academic Council Annexure R-1/5 submitted by the Respondent No.1 on</p>	



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	<p>Item No.5 at page 18, the University had also decided to introduce the bridge course in order to over come the difficulty of the students like the petitioner. However, some how that could not be implemented. Therefore, in our considered opinion in any case it is not a case where the petitioner was totally ineligible to seek admission in M.Sc. (Previous) but the fact remains that the Respondent No.1 had not recognized this course and the petitioners case was not that without any foundation she took admission in M.Sc.(Previous). Even the Academic Council of the Respondent No.1 had to consider whether the degree obtained by the petitioner should be considered fit for admission to the M.Sc.(Previous) or not and even the Academic council had also decide to introduce such a course; therefore, in the circumstances the petitioner's case is genuine one. More over, the Respondent No.5 considering the petitioner's certificates and degree gave her admission and later on the petitioner appeared in the M.Sc.(Previous) Examination also; and under the orders of this Court she appeared in the M.Sc.(Final) Examination, therefore, we are of the considered opinion that in view of the above peculiar facts and circumstances of the case of the petitioner, and to meet the ends of justice it would be just and appropriate to direct the Respondent No.1 to declare the result of the petitioner of M.Sc.(Previous) and M.Sc. (Final) and grant eligibility certificate as a special case without treating it as a precedent. Otherwise the petitioner will be put to great hardship and her whole career will be in jeopardy without any fault on her part. After getting the admission she persuaded her studies as a bonafide student. Had the petitioner was informed at the initial stage that she is not eligible as the degree obtained by her is not recognized</p>	

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	<p>by the Respondent No.1, she could have adopted other course as admissible to her, but she bonafidely acted upon the decision of the Respondent No.5 as such now denying the fruits to the petitioner in our opinion will be a great injustice to her.</p> <p>Having considered the facts and circumstances of the case the Respondent No.1 University is directed to issue eligibility certificate and to declare the result of the petitioner of M.Sc.(Previous) and M.Sc. (Final) Examination. However, this will not be treated as precedent.</p> <p>With the above observation this petition is disposed of.</p> <p>Certified copy as per Rules.</p>	
	<div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; padding: 10px; text-align: center;"> Sd/- Acting Chief Justice </div> <div style="border: 1px solid black; padding: 10px; text-align: center;"> Sd/- L.C. Bhadoo Judge </div> </div>	

[पीछे देखिये]

9/2/06