

Before N. K. Sodhi & R. C. Kathuria, JJ

HARPREET SINGH BAWA,— *Petitioner*

Versus

GURU NANAK DEV UNIVERSITY AND ANOTHER,—*Respondents*

C.W.P. No. 11336 of 2000

10th October, 2000

Constitution of India, 1950—Art. 226—Guru Nanak Dev University Calendar 1999, Vol. III—Chapter III(i), Ordinance 6—Prospectus for Law Entrance Test (2000-2001), Part ‘E’ C1.2—Entrance test for LL.B. professional course—Cut off date for production of final result of the qualifying examination fixed—Petitioner declared successful in the entrance test—Delay in declaration of the result of qualifying examination—Petitioner failed to submit the result at the time of interview—Whether action of the respondents in declining admission to the petitioner can be termed as arbitrary—Held, no—Provisions of ordinance 6 not applicable to admissions in professional courses conducted on the basis of entrance tests.

Held that, the petitioner could not produce the final result of the qualifying examination at the time of interview and for that reason he failed to fulfil the requirement of eligibility clause laid down in the prospectus. No doubt, the delay in declaration of the result of qualifying examination of the petitioner is not, in any manner, attributable to him, but he has to face the consequences resulting therefrom. If such a course is not adopted, it would result in total chaos and would render it difficult to regulate the admissions because the selected candidates would have to make way for the candidates whose results are declared later than the cut off date fixed in the Prospectus. Therefore, the action of the respondents in declining admission to the petitioner cannot be termed as arbitrary, as sought to be propounded from his side.

(Paras 8 & 10)

R.T.P.S. Tulsi, Advocate,—*for the Petitioner*

P.S. Patwalia, Advocate,—*for the Respondents*

ORDER

R. C. Kathuria, J.

(1) In this petition, the petitioner has prayed for issuance of a direction to the respondents to admit him in LL.B. (3 Years Course)

(hereinafter referred to as the Course) in Guru Nanak Dev University, Amritsar, respondent No. 1 (herein after referred to as the University').

(2) The petitioner appeared in Entrance Test for the Course conducted by the University on 11th July, 2000 provisionally because final result of the qualifying examination i.e. B.Com. (hereinafter referred to as 'the Qualifying Examination') had not yet been declared by the Delhi University. In the result published in the Daily Ajit (Punjabi) on 18th July, 2000, he was successful and placed at serial No. 22 in the merit list. There were 50 seats in the Course. In terms of the Regulations contained in the Prospectus, Law Entrance Test (2000-2001) issued by the Faculty of Law of the University, the petitioner was required to produce the final result of the Qualifying Examination of B.Com. at the time of interview held on 20th July, 2000. He could not produce the same and for that reason was not given admission in the Course. The result of the Qualifying Examination of the petitioner was declared on 28th July 2000. He thereafter approached the Registrar of the University for allotment of seat in the said Course which was vacated on 9th August, 2000 by Richa Srivastava, who had secured 6th position in the order of merit in the Entrance Examination, but without any result. It has further been averred by the petitioner that he was entitled to seek admission in the Course on payment of late fee in terms of the provisions contained in Ordinance 6 of Chapter III (i) of the University Calendar 1999, Volume III, but his prayer in this regard was also declined by the University. Terming the action of the respondents as illegal, a challenge has been made to the provisions contained in clause (2) of Part E of the Prospectus on the ground that the same are *ultra vires* of the provisions of Ordinance 6 *ibid*

(3) The respondents, in their joint written statement, contested the claim of the petitioner. It has been pleaded by them that, as the petitioner had failed to submit the final result of the Qualifying Examination at the time of interview in terms of the eligibility criterion laid-down in the Prospectus, admission to the Course could not be granted to him. It was further stated by them that provisions of Ordinance 6 contained in Volume III of the University Calendar 1999 are applicable to the Colleges governing the normal stream of studies consisting of B.A./B.Sc./B.Com. etc. and that the same are not applicable to admissions in Professional Courses conducted on the basis of Entrance Tests. The denial of admission to the petitioner in the said Course was thus, justified.

(4) We have heard Mr. R.T.P.S. Tulsı, learned counsel for the petitioner, Mr. P.S. Patwalia, learned counsel for the respondents and have gone through the records of the writ petition.

(5) The sole question which has arisen for determination in this petition is—whether the action of the respondents in denying admission to the petitioner to the Course on account of his failure to produce the final result of the Qualifying Examination at the time of interview held on 20th July, 2000 by the University is to be governed by the cut-off date fixed in the Prospectus and, if so, whether the same is violative of the provisions contained in Ordinance 6 *ibid*.

(6) The eligibility criterion for admission to the Course laid-down in Part B of the Prospectus (pages 10 and 11) is as under :—

“(I). Admission to LL.B (Three Years Course).

(1) The admission to LL.B. (Three years Course) shall be open to all such candidates who possess the qualifications given hereunder :

Bachelor’s Degree of GNDU or from any other University recognised as equivalent thereto with not less than 45% marks in aggregate under 10+2+3 System or Master’s Degree of GNDU or recognised as equivalent thereto.

(2) The admission to the LL.B. (Three Years Course) shall be based on the merit of the candidate which will be determined on the basis of the result of the Law Entrance Test-2000 (to be held at Amritsar and Jalandhar), as well as his/her performance in the qualifying examination at graduation level in the ratio 80 : 20 respectively and subject to such reservations as are prescribed by the University.

(3) Mere qualifying the Law Entrance Test shall not entitle a candidate to get admission in the LL.B. Course.

(4) The interview for admission to LL.B. Course will be held at the Department of Laws, Guru Nanak Dev University, Amritsar on 19th-20th July, 2000. No separate communication will be sent to the candidates. The choice of station for admission will be taken from the candidates at the time of their interview and the same will be allotted to them on the basis of their merit. The choice once given by the candidate shall be considered as final and no change of station will be allowed subsequently. Attending the interview on the stipulated date is mandatory for admission to the Course.”

(7) A candidate seeking admission to LL. B. Courses is required to attach with the application form the documents as detailed in Part

E of the Prospectus (pages 21 and 22), which reads as under :—

“(1) Matriculation or Equivalent Examination Certificate bearing a testimony of Date of Birth of the Candidate.

(2) Detailed Marks Card of the Qualifying Examination or evidence of having appeared in the Qualifying Examination. The candidates having appeared in the Qualifying Examination whose result was not declared at the time of submission of application or at the time of appearing in the Law Entrance Test must produce their final result at the time of interview, failing which their claim for seat shall lapse automatically.”

(8) Admittedly, in the present case, the petitioner could not produce the final result of the Qualifying Examination at the time of interview held on 20th July, 2000 and for that reason he failed to fulfil the requirement of eligibility clause laid-down in the Prospectus. The question raised before us had directly arisen in the case of *Sachin Gaur v. Punjabi University, Patiala and another, (1)*. The facts of the case were that the petitioner had appeared in the final examination of Diploma in Electronics Engineering conducted by the U.P. Board of Technical Education at Lucknow. Before his result could be declared, he applied for admission in the Course of Electronics and Communication Engineering to Sant Longowal Institute of Engineering & Technology, Longowal, District Sangrur, mentioning in the application-form that the final result of Diploma in Electronics Engineering was awaited. He was permitted to appear in the Entrance Test and secured 8th position. He was, thus, entitled to be admitted to the Course of Electronics and Communication Engineering. The interview was to be held on 17th July, 1995. But when he appeared in the interview, he was denied admission to the said Course on the sole ground that result of final examination of Diploma in Electronics Engineering had not been declared. The stand of the respondents in declining admission to the petitioner was upheld. While accepting the stand of the University, it was observed that if the time-frame fixed by a particular Institution for admission or for that matter the last date of admissions, is changed or is required to be changed, for the reason that the Universities located in other parts, of the country have so far not declared the results of the qualifying examination, the admissions would never be finalised. It was further observed that providing of cut-off date in the Prospectus-cum-Information Brochure cannot be styled to be arbitrary. It was also noticed that by strictly adhering to

(1) 1996(1) R.S.J. 1 (F.B.)

the time-frame set up in the Prospectus, some students would be deprived of admission despite their higher merit in the Entrance Test, but such an outcome is impossible to be prevented.

(9) In another case *Indu Gupta v. Director of Sports, Punjab etc.*, (2) a Full Bench of this Court observed as under :-

“ 13. Repeated affirmation of the principle by different Full Benches of this Court while relaying upon the judgments of the Hon'ble Apex Court, unambiguously contains the dictum that the brochure declared before the entrance test has the force of law, strict adherence to its terms and conditions is of paramount consideration and terms and conditions including the cut-off date cannot be relaxed unless such power is specifically provided to a given authority by use of unambiguous language. It is before us that there is no power of relaxation given to any authority in regard to specific adherence and compliance of the terms and conditions of the brochure. Rightly so, no such power could be vested as it will but necessarily introduce the element of discrimination and arbitrariness in the action of the authorities concerned, which may ultimately cause serious prejudice to the candidates who are not benefited of such unprescribed relaxation or waiver.”

(10) In view of the dictum of law laid-down in the above-mentioned cases, there is no escape from the conclusion that the cut-off date, by reference to the eligibility laid-down in the Prospectus, has to be satisfied by the petitioner. No doubt, the delay in declaration of the result of Qualifying Examination of the petitioner is not, in any manner, attributable to him, but he has to face the consequences resulting therefrom. If such a course is not adopted, it would result in total chaos and would render it difficult to regulate the admissions because the selected candidates would have to make way for the candidates whose results are declared later than cut-off date fixed in the Prospectus. Therefore, the action of the respondents in declining admission to the petitioner cannot be termed as arbitrary, as sought to be profounded from his side.

(11) The other argument, pressed with vehemence by the learned counsel for the petitioner, is that the cut-off date fixed in the Prospectus is in conflict with the provisions contained in Ordinance 6 *ibid* and the provisions of Ordinance being statutory would have precedence over

the provisions of the Prospectus in this regard and for that reason the provisions of the Prospectus deserve to be declared *ultra vires* of the Ordinance. Support was sought by him from the observations made in the cases of *Miss Ekta Sachdeva v. Guru Nanak Dev University and another* (3), *Parmod Kumar and another v. Punjabi University, Patiala through its Registrar and others* (4) *Amit Puri v. Punjabi University, Patiala* (5) and *Dinesh Kumar v. State of Haryana* (6).

(12) While controverting the submission made, it was strenuously urged by the learned counsel representing the respondents that the provisions of Ordinance 6 *ibid* deal with the normal admissions to the Courses of B.A./B.Sc./B.Com. etc. and have no applicability to the Professional Courses based on Entrance Tests.

(13) In order to appreciate the submission made, the case relied upon from the side of the petitioner have to be adverted to. In *Ekta Sachdeva's case* (supra), the petitioner who possessed B.A. (Pass) degree with more than 50% marks from Punjabi University, Patiala, was denied admission to M.A. Part-I (English) examination by the University on the ground that she was not eligible to seek admission for the reason that the Ordinances under which she had passed her B.A. examination from Punjabi University, Patiala, were not recognised by the university. The objection of the University was not accepted and it was held that as the petitioner had passed her B.A. examination from Punjabi University, Patiala, which is a recognised University, she was eligible under the Ordinance to seek admission to M.A. Part-I (English) examination and that it was not necessary that such degree should have further been granted equivalence by the respondent-University. In *Parmod Kumar and another's case* (supra), the facts were that the petitioners had sought re-evaluation of their answer-books within the time prescribed under the University Regulations. On account of delay on the part of the University in the re-evaluation of their answer-books, they could not seek admissions to the next higher classes along with the other students despite the fact that under University Regulations a candidate, whose result is published late for reasons which are not attributable to the candidate, could be admitted without payment of late fee within ten working days from the date on which the result is published. The petitioners had applied for admission within the prescribed period of ten days. Denial of admission to them

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- (3) 1993(1) SLR 476
(4) 1995(4) SLR 61
(5) 1995(4) SLR 170
(6) 1996(2) SCT 493

was held unfair and arbitrary. It was further observed that the right conferred by statutory provisions of the University Calendar, cannot be taken away by an executive decision of the Syndicate. The same principle was enunciated in *Amit Puri's case* (supra). In *Dinesh Kumar's case* (supra), admission was not granted to the petitioner as he had not produced original 10+2 certificate and had submitted certified copy thereof. The action of the Regional Engineering College, Kurukshetra, was not approved and it was directed to grant admission to the petitioner. The facts of the above-mentioned cases amply indicate that the controversy involved in those cases was entirely different and in none of the cases admissions of the petitioners was in respect of Professional Courses for which cut-off date had been fixed in the Prospectus.

(14) With regard to the controversy raised from the side of the petitioner in the present case, it is necessary to notice the relevant provisions of Ordinance 6 *ibid* and the same are as under :—

“ 6. A student whose result is published late by the Guru Nanak Dev University or other recognised University/Boards can be admitted without late fee within twelve working days (including two transit days) from the date of Universities/Boards' result notification.

All such cases must be reported by the Principal to the University office within fifteen days from the date of actual admission so as to ascertain that the lower examinations in which they have appeared are equivalent to the corresponding examinations of this University.”

(15) Examination of the above provisions, at the first flush would indicate that a provisions has been made to take care of an eventuality where the result of the student/candidate has been published late and admission can be granted from the date of notification of the result in the manner specified in Ordinances 1 to 5 of Chapter III (i) of the University Calendar 1999, Volume III.

(16) Relying upon the above-noted provisions, it has been pointed out by the counsel for the petitioner that he had applied to the Registrar of the University, *—vide* letter dated 20th July, 2000 (Annexure P-3) to reserve a seat for him as his result of Qualifying Examination would be declared in the month of July, 2000. He had also sent another letter dated 9th August, 2000 (Annexure P-4) to the Registrar of the University wherein he had requested that as he had received his

Graduation result, he should be given admission against the seat which had fallen vacant because of non-joining of the Course by Richa Srivastava, but the University did not accede to his request and declined admission to him. The said action of the University has been termed against the provisions of Ordinance 6 *ibid*. The above-noted circumstances in the present case would not advance the case of the petitioner. The fact remains that the above-noted provisions of Ordinances deal with the situation where normal dates had been approved by the Syndicate for admission to other non-professional Courses. This conclusion is amply reinforced because for admission to the LL.B. Course not only details with regard to eligibility criterion have been mentioned in the Prospectus, but a cut-off date has also been mentioned therein. In this case, it has been clearly stated in Part E of the Prospectus, reproduced above, that the candidates having appeared in the Qualifying Examination whose result was not declared at the time of appearing in the Law Entrance Test must produce their final result at the time of interview, failing which their claim for seat shall lapse automatically. Therefore, the petitioner having applied to the Course on the basis of the date furnished by the Prospectus, cannot be heard to say that the provisions of the Prospectus are *ultra vires* of the Ordinances referred to above. The provisions of the Prospectus and the Ordinance 6 *ibid* deal with different situations and they cannot be said to be in conflict with each other. As laid down in *Sachin Gaur's case* (supra) and *Indu Gupta' case* (supra), not only the students but the Universities also have to adhere to the time-frame set up in the Prospectus for admissions or for that matter the last date of admissions because the provisions of the Prospectus have the force of law.

(17) Before concluding, it has to be observed that admissions to the professional courses have become competitive and students and their parents have become career conscious. The law laid down by our own High Court and the Apex Court, noticed in detail earlier, aims at removing ambiguity wherever it exists and has tied down the admissions to the professional Courses to cut-off dates keeping in view the larger interest of the student community. This is not only the need of the day, but has come to be recognised as a settled admission jurisprudence.

(18) For the aforesaid reasons, we do not find any merit in this writ petition. Accordingly, the same is hereby dismissed with no order as to costs.

S.C.K.