

tage or disliking. It was also held that suicide is not irreligious and not immoral whereas the offence of abetting suicide is graver as abetment of offence of murder. The Legislature in its wisdom had made the offence of abetment to suicide punishable under Section 306 of the Indian Penal Code with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. By no stretch of imagination, it can be said that attempt to commit suicide is a major offence while abetment to the offence of suicide is a minor offence. On the other hand, abetment to suicide is altogether a different offence. In the very nature of things, the offence of committing suicide is not rightly made punishable under the Code as a dead person who has committed suicide cannot be prosecuted. Thus, the analogy of attempt to commit suicide is violative of right of liberty enshrined in Article 21 of the Constitution the offence of abetment to commit suicide would also be *ultra vires* of the Constitution is not acceptable because attempt to commit suicide is volitional and well planned act of the person concerned whereas abetment of the offence of suicide is on different footing as a third person is forcing the other person to take his life by committing suicide. Thus, the ratio of the decision of the Apex Court in *P. Rathinam/Nagbhusan Patnaik's* case (supra) is not applicable to the facts of circumstances of this case in holding that the provisions of offence of abetment of suicide are *ultra vires* of Articles 14 and 21 of the Constitution.

R.N.R.

Before S. S. Sodhi & Ashok Bhan, JJ.

PANJAB UNIVERSITY, CHANDIGARH AND
ANOTHER,—Petitioners.

versus

MISS SHABNAM KUMARI AND ANOTHER,—Respondents.

L.P.A. No. 726 of 1991.

September 9, 1991.

Constitution of India, 1950—Arts. 226/227—Panjab University Calendar 1988, Chapter III, Vol. II—Regulation 14.3 & 14.4—Admission—Petitioner qualified in examination held in foreign country—When candidate on basis of foreign qualification/degree seeks admission in University, the equivalence of such degree vis-a-vis any degree or examination conducted by the Panjab University is

for Panjab University to determine—Courts loath to interfere so long as criteria adopted by University for determining such equivalence is just.

S. S. Sodhi, J.

Held, that there can be no escape from the conclusion that when a candidate on the basis of some foreign qualification or degree seeks admission to any course governed by the Panjab University Calendar, the equivalence of such degree or examination vis-a-vis any degree or examination conducted by the Panjab University is a matter for the Panjab University to determine. So long as the criteria adopted by the University for determining such equivalence is fair and reasonable, the Courts would be loath to interfere.

(Para 13)

Ashok Aggarwal, Sr. Advocate, *for the Appellant.*

Sarwan Singh, Advocate, *for the Respondent.*

JUDGMENT

S. S. Sodhi, J.

(1) The matter here concerns the admission sought by the petitioner Shabnam Kumari Wadehra to the M.B.B.S. Course of the Dayanand Medical College, Ludhiana, on the basis of having passed the Grade 12 (Senior Secondary School Examination) in 1987 from Sir Charles Tupper Secondary School, Vancouver, British Columbia, Canada. Included amongst the papers passed by her in this examination being Biology, Chemistry and English. This Grade 12 examination was asserted to be equivalent to 10+2 examination of the Panjab University.

(2) Later in 1989, the petitioner also passed the paper in Physics from the Community College, Vancouver, Canada, and was awarded grade 'C' therein. It is the case of the petitioner that this too is equivalent to the Physics paper of the 10+2 examination of the Panjab University.

(3) Dayanand Medical College, Ludhiana, has 13 seats reserved for "Candidates passing Pre-Medical +2 of 10+2+3 system examination equivalent from any Foreign University/Board, recognized by the Panjab University, Chandigarh." It was against one of these 13 seats that the petitioner sought admission.

(4) According to the conditions for admission, as set out in the prospectus, the petitioner was also required to obtain an eligibility

certificate from the Panjab University. The relevant condition in the prospectus in this behalf reads as under :—

“Candidates having passed their qualifying examination from a Foreign University/Board are required to produce eligibility certificate, for admission to this course from the Registrar, Panjab University, Chandigarh, and a clearance certificate from the Ministry of Health and Family Welfare, Government of India, Nirman Bhawan, New Delhi whenever demanded.”

(5) Issuance of such eligibility certificate by the Panjab University to the petitioner being conditional upon her passing a special test in Physics is what provided her the occasion to move this Court in writ proceedings. It is against this special test that this petition is directed.

(6) As mentioned earlier, the petitioner claims that the physics paper passed by her from the Community College, Vancouver, too was equivalent to +2 examination of the Panjab University. To support her case, reliance was sought to be placed upon the letter obtained by her from the Ministry of Education, British Columbia, of August 21, 1990 (Annexure P-3) certifying that in the view of the Ministry, the Physics 115 paper successfully completed by her from the Community College, Vancouver, was “an acceptable equivalent of the British Columbia Secondary School Course of Physics 12”. The grievance of the petitioner is that despite this letter having been produced before the Panjab University, the grant of the eligibility certificate was still made conditional upon her passing a special test in Physics.

(7) A plea of discrimination was also raised on the ground that another candidate, namely, Avtar Singh Sekhon, who had secured lesser marks than the petitioner, had on an earlier occasion been given the eligibility certificate by the Panjab University without imposing any such condition of a special test.

(8) A reference to the record shows that there is no warrant for imputing any discrimination to the Panjab University in the context of the eligibility certificate having been granted to Avtar Singh Sekhon as on the face of it his performance in Grade 12 examination was definitely of a higher standard than that of the petitioner.

(9) In dealing with this matter, it must be appreciated that the petitioner has qualified in an examination held in a foreign country. Admittedly, under as regulation or general orders issued by the Panjab University, has the examination passed by the petitioner been held to be equivalent to the 10+2 examination of the Panjab University. The relevant provisions in the Panjab University Calendar pertaining to admission of candidates possessing foreign degrees or qualifications are 14.3 and 14.4 of Chapter III of Volume II of the Panjab University Calendar, 1988. These are reproduced here under :—

“14.3. Notwithstanding any other Regulation, the Syndicate in the case of—

- (a) a foreign scholar, who is not of Indian domicile; or
- (b) a person who is not an Indian national; or
- (c) a person of Indian origin studying in a foreign country shall have power to—
 - (i) admit him to any class of a college affiliated to this University for which he is considered fit by the Syndicate;
 - (ii) permit him to take a University examination after studying in an affiliated college for a shorter period than prescribed by the Regulations for the examination concerned;
 - (iii) grant permission to offer a special paper in English in lieu of the additional optional paper in Pre-Medical, Pre-Engineering, and B.A./B.Sc. examinations.

14.4. The Syndicate may prescribe a special course and/or test in English for foreign students coming from countries where the standard of English renders it necessary to enable them to pursue their studies properly. Exemption may be granted to students who have already qualified in Cambridge University School Certificate examination and General Certificate of Education examination or any other examination of equivalent standard.”

(10) It will be seen that the Syndicate has been given the requisite power to deal with the matter of granting admission to students possessing foreign qualifications. This power of the Syndicate has, according to the Regulations as contained in

Volume III of the Panjab University Calendar, 1990, been delegated to the Vice-Chancellor. It follows, therefore, that it is for the Vice-Chancellor to determine whether or not an eligibility certificate should be granted to a candidate seeking admission on the basis of an examination passed in a foreign country.

(11) The matter to be seen now is whether any flaw or error can be attributed to the Vice-Chancellor in prescribing this condition of passing a special test in Physics upon the petitioner, as a pre-condition to the grant to her of the eligibility certificate. The main-stay of the counsel for the petitioner being the contents of paragraphs 11 and 12 of the return filed on behalf of the Panjab University, which he construed to imply as an admission that the Physics paper passed by the petitioner was equivalent to Grade 12 as per the view of British Columbia Department of Education. According to the counsel for the Panjab University, however, no such admission was made or intended and what was mentioned in the return was merely the contents of the letter of the Ministry of Education, Annexure P-3. This was further so clarified by the additional affidavit filed by the Registrar of the University. No such admission can, therefore, be attributed to the University.

(12) Before the learned Single Judge, the stand of the University was that the petitioner should have had a minimum grade point average of 2.5 and for working it out it had also taken into account the fact that for the examination which she has passed, the pass marks were 50 per cent. Mr. Ashok Aggarwal, Senior Advocate, appearing for the Panjab University, after checking up the record informed that no general rule had been laid down by the Vice-Chancellor that admission of students with foreign qualifications would be dependent upon them having secured a grade point average of 2.5 or better, nor indeed was there any general rule for working out such grade point average. The stand taken by him here, on the other hand, being that it was for the Punjab University to have its experts examine the standard of the foreign examination and then determine its equivalence. Further, unlike the case of Avtar Singh Sekhon, the petitioner had qualified in only three papers in Grade 12, namely, Biology, Chemistry and English. The University did not, however, consider the Physics paper passed by the petitioner to be of the same standard and it was for this reason that she had been called upon to take a special test. As regards the letter from the Ministry of Education, British Columbia, Annexure P-3, it was rightly contended by him that this was merely an opinion of a foreign government which is clearly not binding upon the Panjab University.

(13) There can be no escape from the conclusion that when a candidate, on the basis of some foreign qualification or degree, seeks admission to any course governed by the Panjab University Calendar, the equivalence of such degree or examination vis-a-vis any degree or examination conducted by the Panjab University is a matter for the Panjab University to determine. So long as the criteria adopted by the University for determining such equivalence is fair and reasonable, the Courts would be loath to interfere.

(14) After giving the matter our most careful consideration, we see no reason to interfere with the decision of the Panjab University to direct the petitioner to pass a special test in Physics as a pre-condition to the grant to her of the eligibility certificate, to enable her to obtain regular admission to the M.B.B.S. course at Dayanand Medical College, Ludhiana. We consequently hereby set aside the order of the learned Single Judge, with a direction to the Panjab University to fix a date for the special test in Physics to be taken by the petitioner, which shall not be earlier than one month from today. Further, it is clarified that this special test shall be held as per the syllabus for +2 examination in Physics of the Punjab State Education Board. In the meanwhile the petitioner is directed to be granted provisional admission, till the declaration of the result of the special test in Physics.

(15) This Letters Patent Appeal is disposed of in these terms. There will, however, be no orders as to costs.

J.S.T.

Before Hon'ble M. R. Agnihotri & N. K. Sodhi, JJ.

AJAY MALIK,—Petitioner.

versus

PANJAB UNIVERSITY THROUGH ITS REGISTRAR AND OTHERS,—Respondents.

Civil Writ Petition 17301 of 1991.

January 29, 1992.

Constitution of India, 1950—Arts. 226/227, 254—Advocates Act (1961)—Ss. 49(1) (af)—Admission to L.L.B. course—University at liberty to prescribe a higher qualification than the minimum qualification prescribed by the Bar Council of India—Rules framed by the Bar Council not to prevail over the rules and regulations of the University—Article 254 of the Constitution cannot be invoked.