

Reserved

Chief Justice's Court

Case :- SPECIAL APPEAL No. - 260 of 2024

Appellant :- University Of Allahabad And Another

Respondent :- Ajay Singh

Counsel for Appellant :- Kunal Ravi Singh

Counsel for Respondent :- Dhananjai Rai, Jitendra Kumar Singh

WITH

Case :- SPECIAL APPEAL No. - 165 of 2024

Appellant :- Ajay Singh

Respondent :- University Of Allahabad And Another

Counsel for Appellant :- Dhananjai Rai, Jitendra Kumar Singh

Counsel for Respondent :- Diptiman Singh, Kunal Ravi Singh

Hon'ble Arun Bhansali, Chief Justice

Hon'ble Vikas Budwar, J.

(Per: Arun Bhansali, CJ)

1. These appeals are directed against the judgement dated 10.01.2024 passed in Writ C No. 17412 of 2023 by learned Single Judge whereby though the learned Single Judge set aside the impugned action of the University, on finding that the relief as sought cannot be granted to the petitioner, ordered for payment of compensation to the tune of Rs. 50,000/-.

2. The writ petition was filed by the petitioner Ajay Singh aggrieved of the letter/order dated 27.04.2023 along with the Resolution 9 dated 03.06.2022 approved by the Academic Council of the University in its meeting dated 25.06.2022.

3. By the said order, the candidature of the petitioner for seeking admission in the Second Post Graduate Course pertaining to M.A. in Women Studies for the Academic Session 2022-23 was rejected on the ground that the petitioner did not fulfil the criteria laid down by the University.

4. The petitioner, who had LL.B. & LL.M. degrees from the University, pursuant to an entrance test notification qua Post Graduate Admission issued by the University for academic session 2022-23 applied for admission in

M.A. Women Studies Course offered by the University. For the course applied by the petitioner, the Brochure (Information & Guidelines) issued by the University provided under Clause 1.2 that the candidate was required to satisfy the additional condition provided under Clause 1.3.8. The additional condition provided that where a prospective candidate claims genuine interest in pursuing studies in a post graduate programme and presents credible evidence in affirmation of such genuine interest, he may apply for second Post Graduate Examination subject to the condition that he must have passed first Post Graduate Exam by more than 60% marks and is granted permission by Vice Chancellor of the University.

5. Based on the said eligibility indicated in the Brochure, the petitioner took the entrance test and was awarded 141.1 marks. Despite getting the highest marks in his category i.e. O.B.C., the petitioner was not accorded admission. The petitioner made a representation to the University. A response was given on 29.11.2022 informing the petitioner that he was found ineligible by the Admission Committee in its meeting held on 03.06.2022 wherein under Agenda 9, it was resolved that candidates who have already passed post graduate in any subject may apply for admission in any other subject of the post graduate provided he has secured 9 grade points on a 10 point scale in the previous Post Graduate Course.

6. Feeling aggrieved the petitioner questioned the validity of order dated 29.11.2022 by filing Writ C No. 2031 of 2023, which came to be disposed of by order dated 16.02.2023 directing the Competent Authority to complete the process of admission in the course concerned as instructions were received that application for various other students along with the petitioner were still pending for consideration and that no admission for second Post Graduate course had been done till the date of passing of the order.

7. When the direction given by the Court was not complied with, a contempt petition was filed wherein on 27.4.2023, the Court was informed that the admissions have been finalized and that the Admission Committee in its meeting dated 03.06.2022 has resolved to alter the norms/criteria of admission in second Post Graduate course. The Academic Council of the

University approved the norms/criteria on 25.06.2022 and as in terms of the revised criteria, the petitioner was not found eligible, his name did not figure in the list. Feeling aggrieved the present writ petition was filed.

8. Submissions were made that the respondents after commencement of the admission process cannot change the eligibility criteria midstream and that the resolution of the Academic Council passed on 25.06.2022, which was notified on 29.07.2022 could not be applied to non suit the petitioner.

9. On behalf of the University, submissions were made that law is settled that the rules applicable on the last date of making an application would govern the recruitment process and as the criteria was changed by the Academic Council before the last date of making application, no illegality can be alleged qua the action of the University. Further submissions were made that the change was permissible as per Rule 2.10 of the Admission rules and as the change was made on 25.06.2022 and the last date of making online application was 01.07.2022, the same was binding on the petitioner and, therefore, the petition deserves dismissal.

10. Learned Single Judge after hearing the parties came to the conclusion that the selection process can be said to be commenced with the closing of online registration and payment fixed by the University i.e. 01.07.2022 which is the date whereafter the application forms received were processed. The change in the eligibility criteria was made by resolution dated 25.06.2022 which fell within the last date of accepting the registration form and payments. However, as the resolution of the Academic Council of the University was notified only on 29.7.2022 which was on a date anterior to the last date of acceptance of the registration forms. The same amounted to University changing the rules of the eligibility after the selection process had already commenced and that the amended criteria could not be applied to the case of the petitioner to non suit him and consequently held the impugned action of the University being contrary to law set aside the same.

However, the Court observed that as the petitioner had applied for admission for Session 2022-23 and as the session has already commenced, rather the same was on the verge of coming to an end, he cannot be ordered

to be considered for admission, however, on account of his suffering and he has been dragged into unnecessary litigation and was compelled to approach this Court on three occasions, the petitioner was held entitled to compensation with cost quantified as Rs.50,000/-.

11. Feeling aggrieved the University as well as the petitioner has filed the present special appeals. While the University is aggrieved of the determination made pertaining to the action of the University being illegal and consequential payment of compensation, the petitioner is aggrieved of the denial of the relief of admission to the course.

12. Learned counsel for the University made vehement submissions that the determination made by the learned Single Judge that the resolution of the Academic Council was notified on 29.07.2022 and as the same was anterior to the last date of acceptance of registration forms, the same amounted to changing the eligibility after the selection process had commenced, is contrary to the record.

13. Submissions have been made that the Academic Council had resolved and approved the minutes of the meeting held on 03.06.2022 on 25.06.2022 on a date before the last date of making online application. In fact the applicant has himself made online application on 29.06.2022 i.e. after the passing of the resolution by the Academic Council. It was emphasized that with the passing of the resolution on 25.06.2022 by the Academic Council, the revised criteria came into force immediately and the finding recorded by the learned Single Judge regarding the resolution having been notified on 29.07.2022, apparently has no basis. It was submitted that the indication made in the communication dated 27.04.2023 regarding notifying the decision of the Academic Council on 27.07.2022 (which date itself is incorrect, which is rightly taken as 29.07.2022 by the learned Single Judge) has been misinterpreted in view of the fact that there is no provision under the Act or Statute of the University for notification of the decisions of the Academic Council for their coming into force. It was emphasized that the date indicated essentially pertains to the communication of the decision of the Academic Council to the Director, Admissions which cannot be termed

as notifying of the resolution as understood in normal parlance and, therefore, the finding recorded by the learned Single Judge regarding change of criteria after the admission process commenced on 01.07.2023 cannot be sustained and deserves to be set aside and consequential order for payment of compensation also deserves to be set aside. Reliance was placed on **Divya Vs. Union of India and Ors.: (2024) 1 SCC 448 & Bishnu Biswa and Ors. Vs. Union of India and Ors.: (2014) 5 SCC 774.**

14. Learned counsel appearing for the petitioner made vehement submissions that the finding recorded by the learned Single Judge regarding changing the rules of eligibility after the selection process had already commenced does not call for any interference. It was submitted that it is writ large on record that the last date for making the application was 01.07.2022 and though the resolution was passed by the Academic Council changing the criteria on 25.06.2022, the same was notified as per the University's own admission on 29.07.2022 which is a date anterior to the last date of acceptance of registration forms and as such there is no substance in the submissions made by learned counsel for the University.

15. It was further emphasized that once the learned Single Judge came to the conclusion that there was a violation of the admission criteria, though the petitioner was diligently pursuing the University for grant of admission, there was no reason to refuse the relief for grant of admission only on the purported ground of the session having commenced without seeking information regarding the availability of vacant seats and, therefore, the order to that extent deserves to be set aside. Reliance was placed on **Sushil Kumar Pandey And Ors. Vs. The High Court of Jharkhand and Ors.: 2024 INSC 97.**

16. We have considered the submissions made by learned counsel for the parties and have perused the material available on record.

17. The facts are not in dispute wherein the last date of making application seeking admission was 01.07.2022 and the criteria was approved by the Academic Council on 25.06.2022, the petitioner applied on 29.06.2022 and letter dated 29.07.2022 was written by the Registrar to the

Director, Admissions indicating the change in criteria by the Academic Council on 25.06.2022. The learned Single Judge after hearing the parties came to the following conclusion:

“In the opinion of the Court, the selection process can be said to be commenced with the closing of online registration and payment fixed by the University i.e. 1.7.2022 which is the date whereafter the application forms received shall be processed. Admittedly, the change in the eligibility criteria was made by the Resolution No. 23/43 dated 25.6.2022 which fell within the last date of accepting the registration form and payments. However, the resolution of the Academic Council of the University was notified only on 29.7.2022 which was on a date anterior to the last date of acceptance of the registration forms. The last date i.e. 1st July, 2022 was never extended by the University. In such view of the matter, the University proceeded to change the rules of the eligibility after the selection process had already commenced. The amended criteria could not be applied to the case of the petitioner to non suit him. The impugned action of the University being contrary to law is liable to be set aside and is accordingly, set aside.

A question now arises as to what relief can be given to the petitioner once this Court has found that the University illegally declared the petitioner to be ineligible for admission to the course applied for. The petitioner had applied for admission to the Session 2022-23. The session has already commenced rather it is on the verge of coming to an end. No fruitful purpose would be achieved by directing the University to consider the candidature of the petitioner for admission to the course MA Women Studies now. However, the Court finds that the petitioner has suffered immensely and he has been dragged into unnecessary litigation and was compelled to approach this Court on three occasions.

In the opinion of the Court, the petitioner is liable to be compensated with costs quantified at Rs.50,000/- which shall be payable to the petitioner by the respondent/University within a fortnight. The writ petition is consigned to records with the aforesaid directions.”

18. Learned Single Judge found that the selection/admission process is commenced with the closing of online registration and payment fixed by the University i.e. 01.07.2022, the change in eligibility criteria was made by resolution No. 23/43 dated 25.06.2022 which fell within the last date of accepting the registration forms and payments, however, as the resolution was notified only on 29.07.2022 which was on a date anterior to the last date of acceptance of the registration forms, the amended criteria could not be applied to the case of the petitioner to non suit him.

19. There is no challenge to the finding recorded by the learned Single Judge regarding the commencement of the admission process w.e.f. 01.07.2022.

20. It would be appropriate to notice that the Admission Committee of the University by its minutes dated 03.06.2022 passed Resolution 9 as under:

“Resolution 9: It was resolved that the candidate who has already passed post graduate in any subject, he/she may apply for admission in any other subject of the post graduate programme, provided he/she has secured 9 grade point on a 10 point scale in the previous PG course. The candidature of such candidate will be subject to approval of the Hon’ble Vice Chancellor, UoA. For the said purpose, the Vice Chancellor may constitute a committee to consider the application of such candidates and decide the matter on a case to case basis. Admission in second Post Graduate is subject to two conditions-

(a) Such candidate shall not be eligible for hostel accommodation.

(b) Fee will be twice the prescribed fee for the said course.”

21. The said Resolution 9 came to be approved by the Academic Council in its meeting held on 25.06.2022 vide resolution No. 23/43. The agenda and the resolution *interalia* reads as under:

“Agenda No. 23/43 To consider the Minutes dated 03.06.2022 of the Admission Committee of University of Allahabad, Prayagraj.

Resolution No. 23/43 After thorough deliberation it was unanimously resolved that the Minutes of the Admission Committee dated 03.06.2022 was considered and it was resolved that Minutes of the Admission Committee is to be sent to the Hon’ble Members of the Academic Council for their comments if any. The Hon’ble members may sent their comments within two days on email, so that the Minutes of the Admission Committee may be approved by the Academic Council. The Minutes of Admission Committee were circulated to all hon’ble members for perusal and comments if any, no comments has been received so it may be taken as approved.”

22. From the above it would be seen that the resolution passed by the Admission Committee on 03.06.2022 providing for change in eligibility criteria, came to be approved by the Academic Council on 25.06.2022. Once the Academic Council in its meeting dated 25.06.2022 approved the minutes of the meeting of the Admission Committee, the change suggested by the Admission Committee came into force. Nothing was brought on record before the learned Single Judge and even when specific submissions have been made regarding the requirement to notify the resolution of the Academic Council for the same coming into force, nothing has been produced before us to show such requirement under the Act and/or the

Statutes of the University in so far as the eligibility criteria for grant of admission is concerned.

23. The learned Single Judge came to a categorical conclusion that the process for admission commenced with the closing of the online registration and payment fixed by the University i.e. 01.07.2022 and once the Academic Council admittedly passed the resolution on 25.06.2022 i.e. prior to the commencement of the admission process as held by the learned Single Judge, it cannot be said that the criteria was changed after the process had commenced. The learned Single Judge came to the conclusion pertaining to the resolution of the Academic Council having been notified on 29.07.2022 on account of the fact that the Registrar had sent a communication on 29.07.2022 to the Director Admissions for information and necessary action. The communication *inter alia* reads as under:

“Date: 29/7/22

The Director, Admissions, Pravesh Bhawan, Chaitham Lines, UoA

Sir,

In respect of Agenda 23/43, the Academic Council in its meeting held on 25.06.2022 resolved vide Resolution No. 23/43 as under:-

Agenda No. 23/43

To consider the Minutes dated 03.06.2022 of the Admission Committee of University of Allahabad, Prayagraj.

Resolution No. 23/43

After thorough deliberation it was unanimously resolved that the Minutes of the Admission Committee dated 03.06.2022 was considered and it was resolved that Minutes of the Admission Committee is to be sent to the Hon'ble Members of the Academic Council for their comments if any. The Hon'ble members may sent their comments within two days on email, so that the Minutes of the Admission Committee may be approved by the Academic Council. The Minutes of Admission Committee were circulated to all hon'ble members for perusal and comments if any, no comments has been received so it may be taken as approved.”

This is for your kind information and necessary action please.

Yours Faithfully

Registrar”

24. The said communication by the Registrar to the Director Admissions by itself cannot be said to be a notification of the resolution passed by the Academic Council, the same essentially is an intimation requiring Director Admissions to act as per the approval given by the Academic Council and, therefore, the entire basis of the plea raised regarding changing the eligibility criteria after the admission process had commenced, though the learned

Single Judge clearly came to the conclusion that the admission process had started on 01.07.2022, cannot be sustained.

25. Things would have been entirely different in case the communication dated 29.07.2022 was after the publication of the list of successful candidates/grant of admission to the petitioner based on the existing criteria and such admission was sought to be cancelled on account of revised criteria, which is not the case in hand.

26. So far as the judgement relied on by learned counsel for the respondent is concerned, there is no dispute pertaining to the principal as noticed by learned Single Judge and not contested by counsel for the University as well. However, whether in the circumstances of the present case, only on account of intimation of the resolution of the Academic Council by the Registrar to the Director, Admissions, the resolution of the Academic Council can be said to have come into force so as to come to a conclusion that the criteria was changed after the admission process had commenced, which aspect herein before has been found against the petitioner and, therefore, the said judgement would have no application to the facts of the present case.

27. In view of above discussion, the judgement impugned passed by learned Single Judge cannot be sustained. Consequently Special Appeal No. 260 of 2024 filed by the University is allowed. The judgement dated 10.01.2024 passed by learned Single Judge is set aside. The writ petition filed by the petitioner Ajay Kumar is dismissed.

28. Special Appeal No. 165 of 2024 filed by the petitioner Ajay Kumar is dismissed.

Order Date :- 01.07.2024

SK

(Vikas Budwar, J.) (Arun Bhansali, CJ)