

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3123-3130 OF 2011
[Arising out of SLP (C) Nos. 11165-11172 of 2010]

Mahatma Gandhi University & Anr.

... Appellants

Vs.

Jikku Paul & Ors. etc.etc.

... Respondents

J U D G M E N T

R. V. RAVEENDRAN J.,

Leave granted. Heard.

2. The Government of Kerala by G.O. dated 13.11.2002, accorded sanction for admitting the diploma-holders in the state, directly to the second year of the engineering degree (B.Tech) course, subject to the concurrence of the All India Council for Technical Education (AICTE for short) and the universities concerned. The appellant university decided to implement such lateral entry scheme, vide its order dated 21.2.2003.

3. AICTE made and notified the regulations to govern admission of students in Engineering degree programmes through lateral entry vide

Notification dated 12.1.2007. Regulation 6.1. relating to admission of diploma holders is extracted below:

“6.1 (a) Admission of Diploma Holders.

Although engineering diploma programmes are conceived as terminal in nature, some flexibility has to be built in to enable *the meritorious amongst diploma holders to obtain Engineering degrees*. There is evidence of diploma holders pursuing an Engineering programme having performed well not only in their academic careers but also in their jobs.

6.1 (b) Eligibility.

For being eligible to seek lateral entry to engineering degree programme at the second year/third semester level, a candidate must have passed the diploma in Engineering in the relevant branch with a minimum of 60 percent in the aggregate. Only candidates fulfilling these conditions would be eligible for appearing in the entrance test meant for selection of diploma holders for Lateral entry to degree programmes. *The selection of candidates will be based on an entrance test, the merit ranking in the test being the basis of admission.*

At present students obtain diploma through different programmes in different States/UTs. Such programmes have different structures and forms like the semester pattern, annual pattern, sandwich pattern, etc. In order to maintain uniformity, a common entrance examination seems essential. *Further, it is necessary to select only meritorious students who have passed the diploma with good academic record.*

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The affiliating university may prescribe compensatory courses to make up deficiencies for diploma holders, who are admitted through lateral entry.”

(emphasis supplied)

4. The Director of Technical Education, Government of Kerala, published the Lateral Entry Scheme approved by the state government, by G.O. dated 28.5.2008. The said scheme provided that the candidates who

had passed the diploma in engineering, having a minimum of 60% marks (with appropriate relaxation for reservation category students) and who had appeared in the State level entrance test and secured a minimum of 20% marks in the entrance test, will be admitted to the second year/third semester of B.Tech. course under the Lateral Entry Scheme. Relevant portion of clause 9 of the scheme are extracted below:

“9. Entrance Examination

9.1 State level Entrance Test for a duration of 2 hours will be conducted by the LBS Centre for Science and Technology, Thiruvananthapuram for the selection of candidates for admission to second year/third semester B.Tech course under the Lateral Entry Scheme.

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9.3 Candidates shall secure a minimum of 20% marks for the entrance test.

9.4 The Entrance Test will be on selected subjects of first year B.Tech course and English language as per the scheme and syllabus given in the annexure D. The rank list will be published by LBS Centre.”

5. The appellant University learnt that several self-financing engineering colleges had admitted diploma holders who had not secured the minimum of 20% marks in the entrance test to the second year of the B.Tech. course. Therefore it sent a circular dated 18.3.2009 calling upon the self-financing engineering colleges to furnish the details regarding the percentage of marks secured by the diploma-holders admitted to the second year of the

engineering course under the Lateral Entry Scheme. The colleges were also informed that unless such information was furnished, the result of such candidates will be withheld and their applications for registration for the fourth semester will be rejected.

6. The aggrieved students of various self-financing engineering colleges filed writ petitions, for quashing of the University's circular dated 18.3.2009 and seeking a declaration that no entrance test was necessary for admission to the lateral entry to the B.Tech. if the number of applicants for admissions is less than the number of seats available to be filled up under the Lateral Entry Scheme. They also sought a declaration that they were also entitled to pursue their course in the B.Tech. on the basis of the admission they had secured in 2008.

7. A division bench of the High Court by a common order dated 22.12.2009 allowed the writ petitions. It held that: (i) in the absence of AICTE Regulations prescribing any minimum marks for the entrance test, students who are eligible under AICTE Regulations are entitled to seek admission to B.Tech course in self-financing colleges; (ii) the State Government can prescribe minimum marks in entrance test as an additional qualification only for admission to seats in colleges run by it or under its

control; (iii) only if the number of candidates are more than the number of seats available, selection has to be made with reference to the marks secured by the candidates in the entrance test; and if the number of seats were more than the number of candidates available or applying, and even after admission of students who did not secure the minimum marks in the Lateral Entry Test, seats were vacant, there was no need for comparison of inter-se merit of the candidates with reference to marks in the entrance test; and (iv) as the allegation of the students that in the year 2008, several seats earmarked for lateral entry remained vacant was not controverted, there was no infirmity in the admission of diploma holders who did not possess the minimum marks in the entrance test. The said order is challenged by the appellant university.

8. The University contends that the admission of any diploma holder could only be subject to his possessing the basic minimum eligibility prescribed by AICTE, and the additional qualification prescribed by the State Government and the University. It is submitted that the self-financing engineering colleges are not exempted from the additional requirement prescribed by the State Government and the High Court committed a serious error in holding it was not essential to secure minimum 20% marks in the Lateral Entry Test for admission to the second year of Engineering course. It

was lastly contended that mere existence of the vacancies even after completion of admissions, could not lead to the minimum eligibility criteria could be ignored.

9. The issues raised in this appeal are squarely covered by a recent decision of this Court in *Visveswaraya Technological University & Anr. v. Krishnendu Halder & Ors.* [2011 (3) SCALE 359]. We extract below the relevant principles from the said decision:

“(i) While prescribing the eligibility criteria for admission to institutions of higher education, the State/University cannot adversely affect the standards laid down by the Central Body/AICTE. The term ‘adversely affect the standards’ refers to lowering of the norms laid down by Central Body/AICTE. Prescribing higher standards for admission by laying down qualifications in addition to or higher than those prescribed by AICTE, consistent with the object of promoting higher standards and excellence in higher education, will not be considered as adversely affecting the standards laid down by the Central Body/AICTE.

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(iii) The fact that there are unfilled seats in a particular year, does not mean that in that year, the eligibility criteria fixed by the State/University would cease to apply or that the minimum eligibility criteria suggested by AICTE alone would apply. Unless and until the State or the University chooses to modify the eligibility criteria fixed by them, they will continue to apply in spite of the fact that there are vacancies or unfilled seats in any year. The main object of prescribing eligibility criteria is not to ensure that all seats in colleges are filled, but to ensure that excellence in standards of higher education is maintained.

(iv) The State/University (as also AICTE) should periodically (at such intervals as they deem fit) review the prescription of eligibility criteria for admissions, keeping in balance, the need to maintain excellence and high standard in higher education on the one

hand, and the need to maintain a healthy ratio between the total number of seats available in the state and the number of students seeking admission, on the other. If necessary, they may revise the eligibility criteria so as to continue excellence in education and at the same time being realistic about the attainable standards of marks in the qualifying examinations.”

This court further held:

“No student or college, in the teeth of the existing and prevalent rules of the State and the University can say that such rules should be ignored, whenever there are unfilled vacancies in colleges. In fact the State/University, may, in spite of vacancies, continue with the higher eligibility criteria to maintain better standards of higher education in the State or in the colleges affiliated to the University. Determination of such standards, being part of the academic policy of the University, are beyond the purview of judicial review, unless it is established that such standards are arbitrary or ‘adversely affect’ the standards if any fixed by the Central Body under a Central enactment. The order of the Division Bench is therefore unsustainable.”

10. It is not in dispute that as per the scheme of AICTE [vide clause 6.1 (b)] to seek lateral entry to an engineering degree, the candidate must have passed the diploma in engineering in the relevant branch with a minimum of 60% marks in the aggregate. The said clause also provides that the selection of candidates will be based on the entrance test, the merit ranking in the test being the basis of admission. As per the Lateral Entry Scheme of the State Government, the additional requirement is that the candidates should also secure minimum of 20% marks in the entrance test. In view of the decision in *Krishnendu*

Halder (supra), the contentions of the appellant will have to be accepted and the decision of the High Court is liable to be set aside.

11. At this juncture, it is necessary to note that on 30.4.2010, this Court while ordering notice only to AICTE and the colleges, dispensed with the notice to students with a condition that admission of students made during the academic years 2008-2009 and 2009-2010, shall not be disturbed irrespective of the result in these appeals. This Court also stayed the judgment of the High Court only with reference to the academic year 2010-2011. We therefore make it clear that the students who were admitted for 2008-2009 and 2009-2010, even if they did not possess the minimum qualifying marks in the entrance test, shall not be disturbed and shall be allowed to complete their course.
12. We therefore allow these appeals and set aside the order of the High Court (subject to the exception in the case of students mentioned in para 11 above).

.....J.
(R. V. Raveendran)

.....J.
(A.K. Patnaik)

New Delhi;
April 8, 2011.