(2008) 09 P&H CK 0085

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Sunil Dutt		APPELLANT
	Vs	
Maharishi Dayanand University and Another		RESPONDENT

Date of Decision: Sept. 1, 2008

Acts Referred:

- Constitution of India, 1950 - Article 14

Citation: (2008) 152 PLR 516

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J; Hemant Gupta, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Hemant Gupta, J.
The petitioner, a candidate for admission to LL.B. (Hons.) 3 years Course with the respondent-University, has invoked the jurisdiction of this Court for quashing of the condition that the place of posting of a candidate should be within 45 Kms of the Faculty of Laws of the respondent-University.

2. The petitioner being eligible for admission to LL.B. (Hons) 3-Years Course in evening, applied for admission against 80 seats available. The petitioner is working as Hindi Teacher in Government Senior Secondary School, Jamalpur, District Bhiwani, which is at a distance of 70 Kms from the University. The petitioner secured 59 marks out of 100 marks in the Entrance Test and secured 10th rank in the merit of Scheduled Caste category and 74th rank in the General Category. They are 14 seats reserved for the Scheduled Caste category and, thus, the petitioner is entitled to be admitted to LL.B. (Hons.) Course. However, the petitioner was denied admission to the course for the reason that the place of his posting is not within 45 Kms. Thereafter, the petitioner invoked the jurisdiction of this Court aggrieved against the said condition in the prospectus. The relevant clause in the prospectus reads as under:

For 3-Year LL.B. (Hons.) Course (Evening Classes):

Admission test is open to a candidate who has passed Bachelor/Master"s Degree Examination or an Examination recognized by M.D. University, Rohtak as equivalent thereto securing at least 45% marks in aggregate. LL.B.(Hons.) evening course is meant for employees working within 45 Kms. from the Faculty of Law, MDU, Rohtak. The candidates for LL.B. (Hons) 3 year evening course will have to submit a certificate from their employer that the employee will be spared for attending LL.B. (Hons.) evening classes of the Faculty of Law, M.D. University, Rohtak from 5.00 p.m. to 9.00 p.m., daily for six days in a week. Though the teaching classes will be arranged in evening, but these students in the final year shall have to attend practical, legal aid and Court visits in day time for training purposes.

3. The petitioner in support of admission to the course has attached a certificate for Government Service, Annexure P-2, which is to following effect:

It is certified that Sh. Sunil Dutt s/o Sh. Jit Ram is permanent resident of VPO, Bawani Khera (Bhiwani). He is working on the post of Hindi Teacher in Government Senior Secondary School, Jamalpur (Bhiwani). His date of joining in service is 2.11.1995. The employee is working in Government Senior Secondary School, Jamalpur, since 5.11.2005. His basic pay scale is Rs. 6,550/-. School time is 8.00 a.m. to 2.00 p.m.

4. It is the case of the petitioner that he submitted an application for transfer to any of the schools near the boundary of District Rohtak which may facilitate him to attend the classes at the respondent-University. There are more than 10 schools in the nearby District Rohtak though situated in District Bhiwani. Such schools are within distance of 30 to 40 Kms from the Faculty of Laws. In the present petition, the petitioner claims that the condition of 45 Kms is wholly illegal, arbitrary and does not form a reasonable classification and has no nexus with the object to be achieved and, therefore, such clause is liable to be quashed.

5. In the reply, it has been stated by the respondent-University that the University had conducted a Joint Entrance Examination on 8.7.2008 for the LL.B. (Hons.) Course in accordance with the prospectus issued by the University. Chapter 1 of the prospectus . provides for eligibility conditions including the condition that evening course is meant for employees working within 45 Kms from the Faculty of Law, Maharishi Dayanand University, Rohtak. It is contended that in-service candidates working within 45 Kms from University Campus forms a well defined class and the rationale behind laying down territorial limit is the possibility/feasibility of ensuring regular attendance in the evening classes so as to impart proper instruction/training lend credence and acceptability to the professional course rather than to reduce attendance requirement to a mere ritual. It is pointed out that as per instructions of the University Grants Commission/Bar Council, it is essential for a student to attend a minimum of 75% of lectures/practicals delivered separately before he is allowed to appear in the examination. Therefore, keeping in view

the exigencies of the service in the organization of a candidate, possible travel time involved in covering long distance from the place of work to the University and the exacting standards fixed by the apex regulatory bodies, distance of 45 Kms was considered to be reasonable after giving allowance to traffic snarls/difficulty in connectivity etc. Reliance was placed upon the decision of the Supreme Court in the case reported as Kedar Nath Bajoria Vs. The State of West Bengal, to contend that Article 14 of the Constitution does not require that legislative classification should be scientifically perfect or logically complete. Relying upon the judgment in State of Bihar and Others Vs. Sachchidanand Kishore Prasad Sinha and Others, , it was contended that mere possibility of a better classification is no ground to strike down the classification made by the statutory authority. Thus, it was alleged that there is no ground to strike down the classification that the evening course leading to degree of LL.B (Hons) is meant for employees working within 45 Kms from the Faculty of Law.

6. Though it is the case of the petitioner that the school timings where he is posted is from 8.00 a.m. to 2.00 p.m. but the fact remains that evening classes are from 5.00 p.m. to 9.00 p.m. Though he may be able to reach in time but to reach home six days a week after attending the classes covering 70 Kms is not an easy task. It may be further noticed that the place of posting is 15 Kms from Delhi-Hisar Highway and connectively to reach home through the village roads in late hours in the night may not be free from difficulties so as to be ready for his school work at 8"0 clock. Still further, there is no certificate from the employer that the petitioner would be spared for attending LL.B. (Hons) classes from 5.00 p.m. to 9.00 p.m. six days in a week.

7. A degree in professional course such as Bachelor of Laws lead to enrollment of an Advocate under the Advocates Act, 1961. The requirement of the Bar Council of India is that before enrolment of a person as an Advocate, a candidate is required to undergo 75% of lectures in theory and practical subjects. With the said object in mind, the distance of 45 Kms for admission of students for the professional degree cannot be said to be wholly arbitrary or unreasonable. While fixing the distance or for that matter any condition of cut off marks or distance has to be examined from the view of it being arbitrary or unreasonable. Merely because that the place of posting of the petitioner is at 70 Kms will not render the cut off 45 Kms as unreasonable. The distance fixed is to facilitate the movement of a candidate from his place of residence to study and vice versa. It is designed with a view that the job expectations of a candidate and his academic pursuits can be co-ordinated hand in hand.

8. It is open to the University to fix an eligibility condition based on intelligible classification. The classification in respect of employees posted within the radius of 45 Kms from the Faculty of Law of the University is not arbitrary classification. It has reasonable nexus with the object sought to be achieved.

9. Therefore, we do not find any merit in the present petition. Dismissed.