

REPORTABLE

IN THE SUPREME COURT OF INDIA
(CIVIL APPELLATE JURISDICTION)

CIVIL APPEAL NO. 390 OF 2021

KALOJI NARAYANA RAO UNIVERSITY OF
HEALTH SCIENCES

...APPELLANT (S)

VERSUS

SRIKEERTI REDDI PINGLE & ORS.

....RESPONDENT(S)

JUDGEMENT

S. RAVINDRA BHAT, J.

1. With consent of learned counsel for the parties, the appeal was heard finally.
2. The Kaloji Narayana Rao University of Health Sciences (hereafter variously referred to as “the University” or “the appellant”) appeals a decision of the Telangana High Court¹ in W.P. No.23953/2020 which had allowed a writ petition preferred by the respondent (hereafter referred to as “the student”). The respondent student had sought a direction declaring the action of the University in treating her as ineligible for admission to the MBBS Course for the academic year 2020-21, as illegal. The facts necessary for decision are few; the student had applied, pursuant to a notification issued by the University on 30.11.2020 for admission into the management quota for NRI candidates for the MBBS/BDS course during the ac-

¹ Dated 31.12.2020

ademic year (AY) 2020-21. The student had applied for admission to the MBBS course. The University published a list on 12.12.2020 containing the respondent student's name, clarifying that she had not furnished proof of study of Biological Science subject in the qualifying examination (10+2 or equivalent). The respondent student then secured a letter from the Consulate General of India in New York, stating that she had successfully completed the 12th grade from one Conrad High School, West Hartford, Connecticut and that it was equivalent to the Pre-University (Two Year Course) New Intermediate University and the 12-year Senior Secondary Board Examination Certificate of India. On 23.12.2020, the University issued a notification seeking web option for the second round of online counselling for admission to the MBBS/BDS seats in the management quota for AY 2020-21.

3. The student approached the High Court on 24.12.2020 and besides relying upon the certificate/letter issued by Conrad High School, she also relied upon a certificate issued by the Telangana State Board of Intermediate Education dated 23.12.2020, which declared the equivalence and informed that the 12th class/senior secondary examination of the West Hartford Board of Education, Connecticut USA was equivalent to the Intermediate Examination conducted by the Telangana State Board of Intermediate Education. The student applied for an interim order and was permitted to participate in the counselling process conducted for the remaining seats without prejudice to the parties' rights. Thereafter, the University filed an application for vacation of the interim order, made its position clear and spelt out why according to it, the respondent student was ineligible.

4. The High Court, by its impugned order, relied upon the certificate of the Telangana State Board of Intermediate Education, as well as the letter dated 11.12.2020 of Conrad High School, and the certificate of 14.12.2020 issued by the West Hartford Science Department Supervisor. The High Court declared that she had completed her 12th grade with Biological Sciences as required by the concerned regulations framed by the erstwhile MCI – which continued to govern and regulate admissions to various classes of medical courses. The High Court also held

erroneous, the University's position that there was no proof of her studying Biological Sciences in the qualifying examination. The Court took note of the equivalence certificate issued by the Telangana State Board of Intermediate Education, and was of the opinion that the University could not, therefore, approve and add new grounds in respect of the student's application for admission. It concluded that the University acted arbitrarily in treating the student ineligible.

5. Ms. Madhavi Divan, Additional Solicitor General for India (ASG), relied upon Regulation 4(1) of the Medical Council of India Regulations on Graduate Medical Education, 1997, as amended from time to time, particularly on 23.01.2018 (hereafter called "the MCI Regulations"). The relevant part of the Regulation is extracted below:

"4. Admission to the Medical Course - Eligibility Criteria:

XXXXXX

XXXXXX

XXXXXX

4(2) He/She has passed qualifying examination as under:-

(a) The higher secondary examination or the Indian School Certificate Examination which is equivalent to 10+2 Higher Secondary Examination after a period of 12 years study, the last two years of study comprising of Physics, Chemistry, Biology/Biotechnology and Mathematics or any other elective subjects with English at a level not less than core course of English as prescribed by the National Council of Educational Research and Training after the introduction of the 10+2+3 years educational structure as recommended by the National Committee on education;

Note: Where the course content is not as prescribed for 10+2 education structure of the National Committee, the candidates will have to undergo a period of one year pre-professional training before admission to the Medical colleges;

Or

(b) The intermediate examination in science of an Indian University/Board or other recognised examining body with Physics, Chemistry and Biology/Bio-technology which shall include a practical test in these subjects and also English as a compulsory subject;

Or

(c) The pre-professional/pre-medical examination with Physics, Chemistry and Biology/Bio-technology, after passing either the higher secondary school examination, or the pre-university or an equivalent Examination. The pre-professional/pre-medical examination shall include a practical test in Physics, Chemistry and Biology/Bio-technology and also English as a compulsory subject;

Or

(d) The first year of the three years degree course of a recognized university, with Physics, chemistry and Biology/Bio-technology including a practical test in three subjects provided the examination is a "University Examination" and candidate has passed 10+2 with English at a level not less than a core course;

Or

(e) B.Sc. examination of an Indian University, provided that he/she has passed the B.Sc. examination with not less than two of the following subjects Physics, Chemistry, Biology (Botany, Zoology)/Bio-technology and further that he/she has passed the earlier qualifying examination with the following subjects – Physics, Chemistry, Biology and English.

Or

(f) Any other examination which, in scope and standard is found to be equivalent to the intermediate science examination of an Indian University/Board, taking Physics, Chemistry and Biology including practical test in each of these subjects and English.

Note:

The pre-medical course may be conducted either at Medical College, or a science College.

Marks obtained in Mathematics are not to be considered for admission to MBBS Course.

After the 10+2 course is introduced, the integrated courses should be abolished."

6. It is submitted that the University was justified in rejecting the student's candidature because there was no material furnished for it to conclude that she had undergone a complete course in Biological Sciences and that consequently, the

qualifications held by her were equivalent to the 10+2 qualification required by the Regulations. The ASG highlighted in this regard that Conrad High School's letter dated 11.12.2020 stated that the student undertook a rigorous course of study of Advanced Placement ("AP") Biology during her 10th grade year. It is submitted that according to the letter issued by Conrad High School, the course was an introductory biology course which examines in an accelerated and in-depth manner, topics in biochemistry, cellular biology, organismal biology, population biology, evolution, genetics and ecology and that it prepares students for the SAT Biology E/M subject test.

7. The learned ASG further pointed out that according to the letter dated 14.12.2020 relied on by the student, the AP Biology course at Conrad High School was designed to be equivalent to a first-year college level Biology course and was also aligned to the two courses offered at the University of Connecticut. The letter further clarified that *"in most high schools across the US, this Course is offered during Grade 11 or 12 to students as a second year Biology course"*. The ASG pointed out that as a consequence, the University acted correctly and was within its rights in refusing admission on the ground of lack of equivalence in the qualification held by the student. Even in terms of the material submitted by her, as far as the letter issued by the Consulate General of India dated 22.12.2020 is concerned, the learned ASG emphasized that it merely certified that according to the Resolution adopted at the meetings of the Equivalency Committee and the Standing Committee of the Association of Indian Universities, New Delhi, the 12 Year High School Diploma of the United States of America is recognized in India as equivalent to 12 years senior secondary board examination certificate of India. However, significantly, it does not and cannot be construed as equivalent to a 10+2 qualification with Biological Sciences. Likewise, it is stated that the Telangana State Board of Intermediate Education's certificate merely declared equivalence to the intermediate examination conducted by the Telangana State Board of Intermediate Education. This too omitted the equivalence of the qualification held by the students in terms of the Regulation,

i.e., that the candidate had to complete 2 years scholastic training in Biological Sciences, which is essential.

8. It was emphasised that the entire structure of Regulation 4(2) lays emphasis not only on the equivalence of the qualification with respect to 10+2 or intermediate sciences examination in the Indian University/Board but that the student should have complete schooling in those subjects in each of the concerned years, i.e. 11th and 12th and should have passed 10+2 with English as a subject as well. It was submitted lastly that by all indications, the qualification held by the student in this case is equivalent to 10+2 of any Board in India with English as one of the subjects but there is no further proof that she had undergone study in Biology or Biological Sciences in each of the concerned years at the 10+2 stage. In these circumstances, the learned ASG urged that this Court should reverse the impugned judgment.

9. Mr. Rana Mukherjee, learned senior counsel appearing for the student argued that the impugned judgment has correctly reasoned that the candidate held equivalent qualifications and was eligible for consideration for a medical UG/MBBS course offered by the University as an NRI candidate, but submitted that a close look at Regulation 4(2), particularly Regulation 4(2)(f) clarifies that nowhere is it expressly stipulated that an eligible candidate has to undergo schooling in every year in the concerned subjects – in the present case, that subject being Biology/Biological Sciences. Learned counsel placed reliance upon the two letters of Conrad High School dated 11th and 14th December 2020, and the equivalence certificate issued by the Telangana State Board of Intermediate Education. He further placed reliance upon the letter written by the Assistant Principal of Conrad High School on 29.01.2021, which sought to clarify the structure of pre-school through 12th grade in the US, especially in the state of Connecticut. The relevant part of the letter reads as follows:

“High school in the United States is not specialized for a specific career path; as a result, in addition to the core classes that students can choose to take (English, Math, Science, World Language, and Social Studies), students can choose to take elective courses in Business, Art, Theatre, Music, Technology and Engineering, etc. While there is an

expected order of specific courses within each field, for example all 9th grade students take Earth Science, a student in 10th grade in West Hartford has the option of taking an Advanced Placement Biology course, which is challenging and at a college level. Students can earn college credit for these courses. Students can take courses based on their interests, but they still must take a certain number of courses in each discipline. Our expectation at Conard High School is that students WILL challenge themselves with difficult and advanced courses to prepare them for college and to determine their future interests and possible pathways to careers. The state of Connecticut does not have a 10+2 system as many other countries do. However, students in grades 9-12 have the opportunity to take college level courses through the college Board's Advanced Placement Program (recognized internationally) and Early College Experience courses (recognized by the University of Connecticut)."

10. Learned senior counsel also relied upon the two judgments of the Madras High Court in *Sharanya Balaji Nadar v. The Dental Council of India*² and *Kashvi Udhayakumar v. Union of India*³ in support of the submission that the interpretation placed by the High Court on Regulation 4(2) is correct. He emphasised that each of the sub-clauses, i.e. (a) to (f) of Clause 4(2) are independent of each other and in the present cases, the declaration of equivalence established by the certificate of 23.12.2020 by the Telangana State Board of Intermediate Education could not have been discredited as was done by the University.

Analysis and Conclusions

11. A plain reading of Regulation 4(2) shows that the MCI visualized five different situations, having regard to the nature and structure of high school education in India, and provided for equivalence in respect of other variants of similar examinations, possibly even overseas qualifications. In all, the MCI regulations contemplate six qualifications for eligibility - (i) higher secondary examinations conducted by one of the several boards (of secondary and senior secondary school examinations) or the Indian School Certificate Examination [Reg. 4(2)(a)]; (ii) the intermediate

² W.P.Nos.32099/2019 & WMP 32352 & 32353/2019 dated 14.07.2020

³WP Nos. 16529 & 16534/2020 & WMP 20510, 20512, 20517 and 20515/2020 dated 01.12.2020

examination in science of an Indian University/Board or other recognised examining body [Reg. 4(2)(b)]; (iii) “*Pre-professional/pre-medical examination*” with Physics, Chemistry and Biology/Bio-technology, after passing either the higher secondary school examination, or the pre-university or an equivalent examination, with further stipulation that the pre-professional examination should have a practical test in Physics, Chemistry and Biology/Bio-technology [Reg. 4(2)(c)]; (iv) the first year examination of the three years degree course of a recognized university, with Physics, Chemistry and Biology/Bio-technology, with a further stipulation that the candidate should have passed the 10+2 examination with English at a level not less than the “core course” [Reg. 4(2)(d)]; (v) the B.Sc. examination of an Indian University, only if the candidate “*has passed the B.Sc. examination with not less than two of the following subjects Physics, Chemistry, Biology (Botany, Zoology)/Bio-technology and further that he/she has passed the earlier qualifying examination with the following subjects – Physics, Chemistry, Biology and English*” [Reg. 4(2)(e)]; and lastly, (vi) any examination found to be equivalent to the intermediate science examination of an Indian University/Board, taking Physics, Chemistry and Biology including practical test in each of these subjects and English[Reg. 4(2)(f)].

12. It is noticeable that each variant of what is acceptable, lays stress on certain common features: (a) that the candidate should have passed the examination with Physics, Chemistry and Biology/Bio-technology; (b) the candidate should have undergone practical tests in those science subjects (c) the candidate should have studied English and, lastly, (d) that marks obtained in Mathematics would not be taken into consideration for deciding admission to the MBBS course.

13. The respondent-student’s argument is twofold: one, that the letters of Conrad High School⁴ and the West Hartford Science Department Supervisor⁵ together with the certificate of the Telangana Intermediate Education Board⁶, establish that she had

⁴Dated 11.12.2020 and 29.01.2020

⁵Dated 14.12.2020

⁶Dated 23.12.2020

successfully undergone a school certificate program, equivalent to the 10+2 qualification in India, and second, that the Advanced Placement (AP) course undertaken by her is equivalent to a first-year degree qualification in Biology. This court finds the submission insubstantial. While the court cannot claim expertise and pronounce upon the curriculum and pedagogy of any course, much less the academic course which the student (in this case) qualified, what it can certainly do is examine whether the University's stand that she does not hold a qualification equivalent to any of the five categories of qualifications spelt out [i.e., Regulation 4(2)(a) to (e)], or the sixth category [Regulation 4(2)(f)] is correct.

14. A careful reading of the said provision discloses that the MCI emphasized that the candidate should have undergone study at the 10+2 stage, (or in the intermediate course) in the specified subjects of Physics, Chemistry and Biology/Bio-technology. In this case, the certificate relied upon by the student⁷ merely clarifies that she undertook a course whilst in the 10th grade. That, by no means, is sufficient to fall within the description of "equivalent" qualification under Regulation 4(2)(f). Nor, in the opinion of this court, can it be deemed adequate having regard to the letter of the Assistant Principal of Conrad High School⁸ that the AP course in Biological Sciences is of college standard.

15. In the opinion of this court, there is a rationale and compelling logic on the part of the University to say that the candidate should have studied biology or biological sciences (apart from the other two science subjects, along with the further requirement of having studied English) in all the relevant years during the intermediate or at 10+2 level. Further, the reference to having studied in the first year in a degree course, at the college level with the said subject, carries with it, the implication that the student would have necessarily undergone academic study and training in the said three subjects at the 10+2 or intermediate level (without which, admission in a degree course is inconceivable in India). The further emphasis on

⁷Issued by the West Hartford Science Department Supervisor.

⁸Dated 29.01.2021

having attended or undertaken practical lessons, (again at that level, in each of the concerned years) clearly signifies that a candidate should have undergone study in those subjects for the last two years at school or intermediate college level. The regulation is further clear that the examination score (marks) in Mathematics *shall not be taken into consideration* for the purpose of admission to a medical course, in reckoning merit or performance in the qualifying examination.

16. So far as the judgment of the Madras High Court in *Sharanya Balaji Nadar* (*supra*) is concerned, the candidate there had applied for admission, and was permitted to appear in the common entrance examination. The structure of the concerned regulations of the Dental Council of India, in that case, were closely similar to Regulation 4(2) of the MCI Regulations in the present case. The High Court accepted the candidates' submissions, and held as follows:

“14. A careful reading of the above regulations makes it clear that a candidate even at the time of taking NEET examination must fulfil the eligibility criteria that is prescribed in Clause 3 which is extracted supra. Clause 3 contains six sub clauses from (a) to (f). Each sub-clause is independent of the other and none of the sub-clauses can be read together. For the purposes of this case, sub-clause (a) and sub-clause (f) requires consideration.

15. The case of the petitioner is that she falls under sub-clause (f) of the regulations. Any candidate who falls under sub-clause (f) of the regulations, has to obtain an equivalence certificate from the concerned authority. The concerned authority is the Association of the Indian Universities. This authority considered the degree/diploma obtained by the petitioner in an educational institution at USA. The concerned authority found that the qualification of the petitioner is equivalent to the senior school certificate of CBSE/other boards in India. The evaluation of the educational credentials has been extracted supra.

16. It is based on this equivalence certificate, the petitioner was allowed to write the NEET examination and the petitioner secured 258 marks and she was allotted a seat in the fourth respondent college by the allotment order passed by the third respondent, dated 24.07.2019. The petitioner is undergoing the course.”

17. In *Kashvi Udhayakumar (supra)* the relevant facts were noted by the court, in the following terms:

“The petitioners got the confirmation from the Equivalence Committee and the Standing Committee of the Association of Indian Universities that the high school diploma underwent by the petitioners in USA is equivalent to 12-year senior school Certificate of Central Board of Secondary Education.”

18. The High Court then cited and relied on *Sharanya Balaji Nadar (supra)* to hold that each sub-clause of Regulation 4(2) was independent, and that the qualification held by the candidate, an NRI who had studied in the USA, was deemed to be equivalent to the prescribed eligibility conditions:

“13. It was categorically held by this Court that each Clause is independent of the other and none of the sub-clauses can be read together.

If the candidate has fulfilled the requirements of any one of the Clause, he or she will be entitled for admission to the Medical Course. The petitioners in the present case will fall within Regulation 4 (f) and once the petitioners have produced the Equivalence Certificate issued by the 5th Respondent, there is no more requirement to again subject the petitioners for one more scrutiny on their eligibility. It will be too farfetched to declare that a candidate who fulfils the requirements for NEET Examination, will not fulfil the qualification when it comes to joining the MBBS Course. Such an interpretation will lead to illogical consequences. The petitioners who were living in USA have come to this country to undergo the Medical Course and they were found to be eligible by the Equivalence Committee to write the NEET Examination.

After having been given an allotment in the 4th Respondent Institution, the 4th Respondent Institution cannot now undertake one more exercise and come to a completely different conclusion by reading Regulation 4 (a) into Regulation 4 (f) and thereby render the effect of Regulation 4 (f) completely nugatory and redundant.”

19. It is apparent that the High Court followed its previous judgment, and did not closely scrutinize the equivalence certificate or the subject stipulations. It also appears to have been largely influenced by the fact that the candidate was in fact

admitted by the University. In the opinion of this court, the construction placed on Regulation 4(2), i.e., that each of the sub clauses (a) to (f) prescribes independent qualifications which should be deemed essential, is rather simplistic. That interpretation ignores the fact that each of the sub-clauses insists that certain subjects should have been studied, and practical examinations attempted at the 10+2 or equivalent level. Secondly, the college or intermediate examination [or equivalent qualifications under Regulation 4(2)(f)] cannot be read in isolation, having regard to the circumstances. The provision must be read in the context of the requirements for eligibility under Regulations 4(2)(a) to (e). The equivalence in qualification is not merely at the level of a 10+2 requirement, i.e., that the candidate should have passed an examination equivalent to the intermediate science examination at an Indian University/ Board. Additional to this requirement, Regulation 4(2)(f) requires equivalence in 'standard and scope' in an examination where the candidate is tested in Physics, Chemistry and Biology including practical testing in these subjects, along with English. These subject matter requirements are consistent across Regulations 4(2)(a) to (e) and (f).

20. The approach and construction placed by the High Court, in this court's opinion, undermines the intent behind the MCI's insistence that a certain kind of education should be undergone, which is that each candidate for the MBBS course should have undergone study in Physics, Chemistry and Biology, in each of the levels (i.e. the two years of 10+2 board examination, or the concerned intermediate examination) with practical exams, in each of those years; that he or she should also have had English as a subject, and that the score in Mathematics would be ignored and not taken into consideration⁹. It would be, in this context, necessary to clarify that the equivalence relied on by the Telangana Intermediate Board in this case, merely alluded to the general equivalence in terms of education at the intermediate level,

⁹The last negative stipulation, by a note, applicable to all the sub-clauses of Regulation 4(2).

without stipulating whether the qualifications were equivalent in terms of the subjects in which she undertook courses for the relevant years.

21. The stipulation of equivalence in Regulation 4(2)(f) is not merely a formal one. The provision must be read in the context of the consistent conditions of eligibility prescribed in Regulations 4(2)(a) to (e), as noted above. This court, in *State of Bombay v. R.M.D. Chamarbaugwala*¹⁰ interpreted the definition of a ‘prize competition’¹¹. A prize competition was defined as including crossword prize competitions, picture prize competitions, etc., and finally, any other prize competition, *for which solution is or is not prepared beforehand by the promoters, or for which the solution is determined by lot or chance*. This last qualification was appended only to the last sub-clause on ‘any other competition’. The court held that the qualification should be equally applicable to the other sub-clauses too, and that there was no difficulty in reading the qualifying clause as lending colour to each of those items. In the present case, Regulation 4(2)(f) explicitly refers to the subject matter requirement reiterated in all the eligibility conditions from (a) to (e); the substance of the eligibility requirement indeed, is that the candidate should have qualified an intermediate level examination or first year of a graduate course, and studied the subjects of Physics, Chemistry and Biology at this level, along with practical testing in these subject areas, and the English language. This subject matter requirement is at the heart of eligibility to be admitted into the medical course.

22. For these reasons, this court is of the opinion that the interpretation placed upon the regulations in both the cited cases, by the Madras High Court, do not reflect the correct position. To be eligible, the candidate should produce clear and categorical material to show that she underwent the necessary years of study in all the stipulated subjects. This court is of the opinion that such stipulations are to be regarded as essential, given that the course in question, i.e., MBBS primarily if not

¹⁰1957 SCR 930.

¹¹Under s. 2(1)(d) of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948.

predominantly, involves prior knowledge - both theoretical and practical, of senior secondary level in biology or biological sciences.

23. For the above reasons, this court is of the opinion that the impugned order cannot be sustained; it is, therefore, set aside. The appeal is allowed without order on costs.

.....J
[L. NAGESWARA RAO]

.....J
[S. RAVINDRA BHAT]

New Delhi,
February 16, 2021.