

**2006 SCC OnLine Raj 238 : (2006) 47 AIC 310 : (2007) 2 SLR 367 (DB) :
(2006) 7 RDD 3651 : (2006) 4 WLC 633**

Rajasthan High Court

(BEFORE RAJESH BALIA AND R.P. VYAS, JJ.)

Between

Shyam Kumar Vyas and others

Versus

State of Rajasthan and others

(D.B.) Civil Writ Petition No. 5129 of 2004

Decided on May 24, 2006



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The Judgment of the Court was delivered by

RAJESH BALIA and R.P. VYAS, JJ.:— Heard learned Counsel for the parties.

2. These two petitions raise a fundamental question:

“whether a degree or diploma awarded by the University established by law for its acceptance by any other Universities established by law need any a declaration or recognition or equivalence for considering it to be a valid qualification for the purpose of courses administered by latter.”

3. The petitioners in D.B. Civil Writ Petition No. 5129/2004 are all persons who have passed three years L.L.B. Course from the erstwhile Maharshi Dayanand Saraswati University, Ajmer from various colleges affiliated thereto before the Bikaner University was inaugurated under the enactment made by the State Legislature. In the State of Rajasthan, University of Rajasthan, Jai Narayan Vyas University, Jodhpur, Mohanlal Sukhadia University of Udaipur, Bikaner Agriculture University, Maharshi Dayanand Saraswati University, Ajmer and now Bikaner University are the Universities set up under separate statutes enacted by same Legislature viz. Rajasthan Legislative Assembly and imparting education within the State of Rajasthan in the regions or areas assigned to respective Universities. After obtaining the degree of LL.B., the petitioners obtained Diploma in Labour and Industrial Law from Kota Open University which is a University established by Law in the year 1987. While each of the student-petitioners had obtained less than 55% marks in LL.B. Ill year course, they had obtained 55% or more marks in Post graduate Diploma course administered by Kota Open University. These facts are not in dispute. However, when the petitioners sought admission to LLM Part-I examination under the Bikaner University, their candidature were not considered solely on the ground that petitioners have not passed Diploma in Labour Law from Bikaner University, but have passed from other University which is not recognized by the University under Ordinance 257 of the Rajasthan University as adopted firstly by MDS University, Ajmer then by Bikaner University in succession which provides that a candidate who has passed the Bachelor of Laws (P) Degree examination of this University or an examination of some other University recognised by the Board of the Management of the University as equivalent thereto securing a minimum of 55% marks in the aggregate or a candidate who holds the LL.B. (P)

degree and has also passed any of the Diploma Courses of this University in the faculty of Law with 55% marks in the aggregate at the Diploma examination and thereafter pursued a regular course of study in affiliated college for one academic year shall be eligible for admission to LL.M. Part I Examination.

4. Admissions were closed for the petitioners only on the ground that Diploma Course in Labour and Industrial Law administered by Kota Open University is not recognised as equivalent to Labour and Diploma Courses for the purpose of admission to LL.M. Course under Bikaner University.

5. Learned Counsel for the petitioners contended that any course administered by the University established by law in India does not require any recognition of equivalence by another University established by law, but has to be accepted as such. Therefore, the question of its



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recognition as equivalent course to Diploma in Labour and Industrial Law by Bikaner University does not arise and such course has to be accepted as equivalent or the recognised course for the purpose of seeking admission to LL.M. Part-I, if otherwise student is qualified.

6. On the other hand, learned Additional Advocate General appearing for the State and Counsel appearing for the Bikaner University have stated that unless the course are recognised by the University for the purpose of admission, the admissions cannot be granted on the basis of courses, degrees or diploma obtained from other Universities as it is not the obligation of the University of Bikaner to accept the qualitative contents of the degrees or diplomas administered by other Universities and that is the object behind Ordinance 257.

7. In our opinion, the ratio of the Hon'ble Supreme Court in *Dr. B.L. Asawa v. State of Rajasthan*¹, is the complete answer to the contentions raised by the respondents.

8. A question had arisen before the Hon'ble Supreme Court about a candidate who obtained MMBS Degree from the University of Rajasthan and M.D. Degree in Forensic Medicine from the University of Bihar. The State Public Service Commission informed him that he was ineligible for the post as the post-graduate degree in Forensic Medicine possessed by him was not the one awarded by the University of Rajasthan because the qualification of MD Degree in Forensic Medicine from Bihar was not declared equivalent to the post graduate degree granted by the University of Rajasthan.

9. This stand of RPSC and University was sought to be supported on the basis of parent Act i.e. the Rajasthan University Act section 23-A which inter alia enables the academic Council of the University to advise the syndicate to make a declaration of equivalence or recognition of the courses administered by other Universities. The contention was raised that unless in terms of the Rajasthan University Act, the Syndicate of Rajasthan University on the advise of the academic council makes a declaration of equivalent or recognised courses imparted by the other Universities, same cannot be recognised within the State of Rajasthan.

10. The Court referring to provision of section 23-A and Clause (vii) of ordinance No. 65 of the Rajasthan University stated:

"The declaration of equivalence or recognition referred to in section 23-A of the Rajasthan University Act as well as in Clause (vii) of Ordinance No. 65 of the Rajasthan University Ordinances can only be in respect of qualifications other than Basic or Post Graduate Degrees awarded by other statutory Indian Universities in

the concerned subjects. In the case of a Post-Graduate degree in the concerned subject awarded by a statutory Indian University, no recognition or declaration of equivalence by any other University is called for.

In the absence of any express provision to the contrary, such a degree does not require to be specifically recognised by other Universities in any State in India before it can be accepted as a valid qualification for the purpose of appointment to any post in such a State."

11. Thus, as per the aforesaid decision any degree or diploma or post graduate degree granted by any University set up under a statute in India anywhere has to be accepted as a valid qualification for any purposes where such qualification is required and that cannot be ignored.



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12. Apart from the aforesaid taking any other view will render the Ordinance 257 open to serious question about its validity being in violation of Article 14 and ultra vires as a provision which has no rational nexus with the object sought to be achieved by such a provision. Literally speaking Ordinance 257 confines the admission to the Bikaner University or University of Rajasthan of only those candidates who have passed LL.B. and diploma course from admission giving University alone. Even within Rajasthan a candidate take a course from one University set up under an Act of Legislature become ineligible for admission to other Universities set up by same legislature on the strength of such degree or diploma, which is demonstrably obvious in the present case. Such a result cannot be countenanced under Constitutional Scheme.

13. We are of the opinion that the non-consideration of candidature of the petitioners for admission to LL.M. Part-I by University of Bikaner under Ordinance 257 could not be sustained. Accordingly, petition deserves to be allowed. It is held that the admission to any course under Bikaner University Act cannot be denied on the ground that the basic qualifications required for admission to such course is not acquired from the University of Bikaner or a course recognised by it so far as the basic degree or qualification is acquired by the applicant from any other University set up by law in India in terms of the ratio of Hon'ble Supreme Court in *Dr. B.L. Asawa's case*.

14. In view of the aforesaid conclusion, the petition is allowed and the admissions directed to be made provisionally are made absolute and the result of the all such candidates admitted to course and taking examination, if not declared, may be declared forthwith. No costs.

15. Petition Allowed.

¹ (1982) 2 SCC 55 : AIR 1982 SC 933.