

SHREYAS SINHA

A

v.

THE WEST BENGAL NATIONAL UNIVERSITY
OF JURIDICAL SCIENCES & ORS.

(Civil Appeal No. 3085 of 2020)

B

SEPTEMBER 09, 2020

**[L. NAGESWARA RAO, HEMANT GUPTA AND
S. RAVINDRA BHAT, JJ.]**

National University of Juridical Sciences (Amendment) Act, 2018 – Reservation for students domiciled in State of West Bengal provided – Common Law Admission Test (CLAT) conducted – Appellant who sought admission to five-year law course of the University for Academic Session 2019-2020 contended that the benefit of reservation was not extended in the said Academic Session – Writ petition dismissed by High Court – On appeal, held: Amending Act came into force at once on 21.05.2019 but there was no provision in the Act that it will apply to the on-going admission process – Admission process was initiated in January 2019 – Reservation policy of 30% seats was not available on the date when the admission process was initiated – Thus, the decision of the University to provide reservation from the next Academic Year is not contradictory to the provisions of the Amending Act – No error in the findings recorded by the High Court warranting interference – West Bengal National University of Juridical Sciences Act, 1999.

C

D

E

Dismissing the appeal, the Court

F

HELD: The Bill for amending the West Bengal National University of Juridical Sciences Act, 1999 was tabled on 16th November, 2018. The same came to be approved and published in the State Government Gazette on 21st May 2019. The National University of Juridical Sciences (Amendment) Act, 2018 comes into force at once i.e. on 21st May 2019 but there is no provision in the Amending Act that it will apply to the on-going admission process. The Academic Council of the University in its 36th meeting held on 27th July, 2019 resolved that 30% reservation for West Bengal domiciles will be implemented from the next Academic Year. Such decision of the Academic Council was

G

H

- A approved by the Executive Council of the University on 10th August, 2019. The total seats at the University are 127 including the seats meant for State domicile candidates prior to the amendment. The additional seats reserved were required to be provided at the time of initiation of the admission process which started in January, 2019. Each of the candidates intending to appear in the CLAT is required to give three choices for admission into the National Law Universities. The candidates had given these choices keeping in view the reservation policy of each State. Since the reservation policy of 30% seats was not available on the date when the admission process was initiated, the decision of the University to provide reservation from the next Academic Year cannot be said to be contradictory to the provisions of the Amending Act. The Act is silent in respect of Academic Year in which the benefit of reservation is to be given. The candidates had already applied and gave an option for admission in the various National Law Universities before the coming into force of the Amending Act. Therefore, the University extended the benefit of the reservation from the next Academic Session. Such decision is fair, reasonable and not arbitrary or capricious. No error found in the findings recorded by the High Court which may warrant interference. [Paras 15, 16 and 20][875-F-H; 876-A-E; 877-E]
- E *S. Krishna Sradha v. The State of Andhra Pradesh & Ors.* [2019] 15 SCR 93; *Anupal Singh & Ors. v. State of U.P. Through Principal Secretary, Personnel Department & Ors.* (2020) 2 SCC 173 – distinguished.
- F *P. Bhima Reddy v. State of Mysore & Ors.* (1969) 1 SCC 68 : [1969] 3 SCR 14 – referred to.

Case Law Reference

- | | | | |
|---|------------------|---------------|---------|
| | [2019] 15 SCR 93 | distinguished | Para 11 |
| | (2020) 2 SCC 173 | distinguished | Para 12 |
| G | [1969] 3 SCR 14 | referred to | Para 14 |

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3085 of 2020.

- H From the Judgment and Order dated 23.12.2019 of the High Court of Calcutta at Kolkata in M.A.T. No. 1107 of 2019.

Vikas Singh, Sr Adv., Anand Varma, Abhishek Prasad, Dhairya A
Madan, Kunal Chatterji, Ms. Maitrayee Banerjee, Pravar Veer Misra,
Vinayak Mehrotra, Amit Agrawal, Kushagra Agrawal, Ms. Radhika
Yadav, Advs. for the appearing parties.

The Judgment of the Court was delivered by

HEMANT GUPTA, J. B

1. The challenge in the present appeal is to an order passed by the
Division Bench of the Calcutta High Court on 23rd December, 2019
whereby an appeal against the order passed by the learned Single Judge
on 22nd July, 2019 was dismissed. C

2. The appellant had sought admission to the five-year law course
offered by the West Bengal National University of Juridical Sciences¹
on the basis of the amendment in the West Bengal National University
of Juridical Sciences Act, 1999² vide the Amending Act which came into
force on 21st May, 2019. Such Amending Act *inter alia* provided for
reservation of seats for students domiciled in the State of West Bengal D
to the extent of at least thirty *percent* of the total intake of the University.
The Amending Act reads as such:

“1. (1) This Act may be called The West Bengal National
University of Juridical Sciences (Amendment) Act, 2018. E

(2) It shall come into force at once.

2. In the West Bengal National University of Juridical Sciences
Act, 1999, after section 4, the following sections shall be inserted:-

4A. (1) The tuition fees in the University shall be such as
may be determined by the State Government from time to time. F

(2) The University shall allow free-ship in tuition fees to
at least five *per centum* of their total strength to the
students belonging to poor and economically backward
classes. G

Note.- The relevant criteria for determining poor and
economically backward class shall be such as may be
determined by the State Government from time to time.

¹ for short, ‘University’

² for short, ‘the Act’ H

A (3) The University shall compulsorily make provision for reservation of seats for the students domiciled in the State of West Bengal to the extent of at least thirty *percent* of the total intake in the University.

B 4B. (1) Admission of the student in the University shall be made on the basis of merit.

(2) Merit for admission in the University may be determined either on the basis of marks or grade obtained in the qualifying examination or on the basis of marks or grade obtained in a relevant entrance examination conducted by the University or by Common Entrance Test conducted at the State or National level.”

C

3. An advertisement was published on 5th January 2019 by a consortium of 21 National Law Universities in the country to conduct Common Law Admission Test³ on 12th May 2019 for which the last date of submission of application forms was 31st March 2019. The undergraduate admissions process herein provided for a choice of institution to the candidate, in which such candidate was willing to seek admission based on merit. The date of CLAT was later changed to 26th May 2019 in which the appellant participated and was ranked 731 in the All India Merit List, declared on 14th June 2019. As per the merit list and his choice, he was selected to get admission in National Law University, Odisha but admittedly, he did not join such institution.

D

E

4. The University had issued a Brochure to fill up 127 seats based on CLAT merit list. As per the Brochure, 74 seats were meant for general category candidates and 10 seats for West Bengal domiciled candidates including 4 seats for general category.

F

5. The grievance of the appellant is that 30% of the seats were reserved for the students domiciled in the State of West Bengal when the Act was amended on 21st May 2019. The Act had come into force before CLAT was conducted, but the benefit of reservation had not been extended to the students by the University in the Academic Session 2019-2020.

G

6. The stand of the University before the Learned Single Judge was that the consortium conducts the CLAT examination for admission

H ³ for short, ‘CLAT’

of students from all over the country. The seat matrix as well as the general information about the said examination was uploaded on the website in January, 2019. The table towards the total allocation of seats across the categories was incorporated in the information uploaded. All the seats in the Domicile category of West Bengal have been filled up, whereas, for the remaining vacant seats, the candidates in terms of the rank have been asked to confirm their acceptance. The last candidate who would be admitted in the General Category has rank 262, whereas the rank of the appellant is 731. It was also contended that the Amending Act is prospective and cannot be made applicable in respect of the admission process which has already commenced from January 2019. The elaborate exercise of admission was started before the Amending Act came into force and the students had given their option for admission based on choices of National Law Universities available.

7. The learned Single Bench of the High Court dismissed the writ petition *inter-alia* holding that the Amending Act is prospective. The rank of the last candidate admitted from the General Category is 262 whereas the rank of the appellant is 731. In terms of the Amending Act, 34 seats are, thus, reserved for the candidates domiciled in the State of West Bengal being 30% of the total intake. Such seats have to be taken away from the unreserved category and added to the domiciled category. It would disrupt the entire admission process. The candidates who have already been allotted seats in different Universities all over the country as per the option would be seriously prejudiced.

8. In the appeal, before the Division Bench of the High Court, an affidavit was filed on behalf of the University, and it stated that the first round of admission was completed on 4th July, 2019 and thereafter the last vacant seats were allotted on 23rd July, 2019. The University has attached the resolution of the Executive Council of the University on 10th August 2019 based on the recommendation of the Academic Council of the University on 27th July 2019. It was decided that the benefit of reservation in terms of the Amending Act would be given from the next Academic Year i.e. 2020-2021.

9. The Division Bench affirmed the findings recorded by the Single Bench, holding that the Amending Act is prospective and all seats under the West Bengal domiciled category have already been filled up so as to prevent students of domiciled in Bengal to migrate to other States. It was held that sub-section (3) of Section 4A of the Amending Act makes

- A it clear that the reservation provided to candidates to apply for CLAT is for the session starting after the law comes into force. It also held that the test of reasonableness and fairness has not been compromised in any manner by the University. The Court held that the Amending Act has come into force after the admission process was started, therefore, such Amending Act would amount to changing the rules of the game after the start of the admission process.

B
C 10. In the Special Leave Petition against the Order passed by the High Court, the show cause was issued limited to the question as to whether the appellant can be accommodated for admission to the University for the year 2020-2021.

D 11. Mr. Vikas Singh, learned senior counsel for the appellant submitted that since the Amending Act came into force at once, the University was bound to provide reservation to students who are domiciles of West Bengal. As the test was held after the Amending Act came into force on 21st May 2019, the action of the University in not granting benefit of domicile to the appellant was unwarranted, illegal and contrary to the provisions of the Amending Act. It was also argued that the appellant was the only candidate who had sought admission against the seats meant for West Bengal domiciled candidates, therefore, he should be admitted *dehors* the merit list. Learned senior counsel for the appellant relied upon the direction (iii) in the judgment of this Court reported in *S. Krishna Sradha v. The State of Andhra Pradesh & Ors.*⁴ to contend that if a meritorious candidate has been denied admission for no fault of the candidate, for the reason that the cut-off date has passed, such candidate is entitled to be admitted in the next session, if the candidate has approached the Court at the earliest and without any delay.

F The court can direct the admission to such a candidate in the next academic year by directing to increase in the number of seats and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, the Court may direct to reduce the number of seats in the management quota.

G 12. The Judgment in *Anupal Singh & Ors. v. State of U.P. Through Principal Secretary, Personnel Department & Ors.*⁵ was relied upon to contend that the Amending Act does not amount to changing the rules of the game after the commencement of the selection process.

⁴ 2019 SCC OnLine SC 1609

H ⁵ (2020) 2 SCC 173

13. On the other hand, Mr. Chatterji, learned counsel appearing for the University contended that the last candidate admitted in the category of domicile students in the West Bengal against the existing quota of 10 was at merit rank No. 356, whereas, the rank of the appellant is No. 731. The decision of the Executive Council of the University was in terms of the Amending Act as the University resolved to provide compulsory reservation in view of the fact that the admission process had already been started and the option of the candidates to seek admission in the various National Law Universities had already been given. Any change in the choice of admission would not be possible at such a stage because of the large number of candidates taking CLAT. Therefore, the University had decided to give the benefit of reservation in terms of the Amending Act from the next Academic Year. It was argued that even if the option for domicile for West Bengal candidates was made available to the appellant, still, he would only have a remote chance of getting admission in the University keeping his rank in the merit list.

14. Learned counsel for the respondent relied upon a judgment of this Court in *P. Bhima Reddy v. State of Mysore & Ors.*⁶ to contend the expression commencement of the Amending Act “at once” means within a reasonable time after the commencement of the Act. The decision of the Executive Council of the University was taken within a reasonable time and cannot be said to be arbitrary as the admission process was initiated before the Amending Act came into force. Therefore, it was not possible to give effect to the provisions of the Act from the Academic Session 2019-2020. Thus, the action of the University to grant the benefit of the Amending Act from the next academic session cannot be said to be unreasonable and is a possible decision in terms of the Amending Act.

15. The Bill for amending the Act was tabled on 16th November, 2018. The same came to be approved and published in the State Government Gazette on 21st May 2019. The Amending Act comes into force at once i.e. on 21st May 2019 but there is no provision in the Amending Act that it will apply to the on-going admission process. The University was mandated to provide compulsory reservation of seats to the extent of at least 30% of the total intake in the University but the year from which the said admission was to be reserved was not prescribed

⁶(1969) 1 SCC 68

A in the statute. The Academic Council of the University in its 36th meeting held on 27th July, 2019 resolved that 30% reservation for West Bengal domiciles will be implemented from the next Academic Year. Such decision of the Academic Council was approved by the Executive Council of the University on 10th August, 2019.

B 16. The total seats at the University are 127 including the seats meant for State domicile candidates prior to the amendment. The additional seats reserved were required to be provided at the time of initiation of the admission process which started in January, 2019. Each of the candidates intending to appear in the CLAT is required to give three choices for admission into the National Law Universities. The candidates
C had given these choices keeping in view the reservation policy of each State. Since the reservation policy of 30% seats was not available on the date when the admission process was initiated, the decision of the University to provide reservation from the next Academic Year cannot be said to be contradictory to the provisions of the Amending Act. The
D Act is silent in respect of Academic Year in which the benefit of reservation is to be given. The candidates have already applied and given an option for admission in the various National Law Universities before the coming into force of the Amending Act. Therefore, the University extended the benefit of the reservation from the next Academic Session. We find such decision to be fair, reasonable and not arbitrary or
E capricious.

17. None of the judgments referred to by Mr. Vikas Singh are helpful to the arguments raised. In *Anupal Singh's case*, the challenge was to the bifurcation of vacancies in the cadre of subordinate agricultural service in the State of Uttar Pradesh on the ground that it amounts to
F changing of the rules of the game in the middle of the selection process. However, the bifurcation of seats amongst the different categories was due to the wrong calculation of seats as per the statutory provisions. It was held that such an amendment in the bifurcation of seats did not amount to change of rules of the game as it was necessitated on account
G of a mistaken calculation of seats in terms of the provisions of the statute.

18. *S. Krishna Sradha's case* is applicable only if a meritorious candidate has been denied admission. In the present case, the appellant cannot be said to be a meritorious candidate in the Academic Session 2019-2020. The benefit of reservation had been extended to the
H candidates by the Universities from the next Academic Session i.e. 2020-

2021. Since there is no mandate in the Amending Act to grant the benefit of reservation in the Academic Year 2019-2020, therefore, the University keeping in view the entire facts and circumstances has rightly held that the benefit of reservation would be extended from the next academic year as the admission process had already been initiated before coming into force of the Amending Act. A

19. We also find that the judgment referred to by Mr. Chatterji is not helpful to the arguments raised. The case pertained to a successful tenderer who was not granted a license because he had failed to furnish a statement of immovable properties and to furnish certain sureties as required by the Rules prescribed. It was in these circumstances, the Court held that the expression “at once” has to be interpreted as to be within a reasonable time. However, the Amending Act in the present case came into force from the date of its publication in the Official Gazette. Since the Amending Act does not contemplate that the benefit of reservation has to be granted in the ongoing academic session, therefore, the University was at liberty to decide to extend the benefit from the next academic session. B C D

20. We do not find any error in the findings recorded by the High Court or that this decision of the University contravenes the provisions of the Amending Act, which may warrant interference in the present appeal. The appeal is, thus, dismissed with no order as to cost. E