

Filed On	13.03.2001
Registered On	13.03.2001
Decided On	16.11.2024
Duration	D: M: Y:

IN THE CITY CIVIL COURT AT AHMEDABAD
COURT NO.22
CIVIL SUIT NO.1152 of 2001

Exhibit-_____

Plaintiff	Shashi Kumar Mohata Aged : 42 years
Versus	
Defendants	1) Gujarat University An University, Established by Gujarat Government through their Vice Chancellor carrying on their activities at University Road, Ahmedabad.
	2) Daulatbhai Trivedi Law College A College - Education Institution through their principal carrying on their activities of law at Navgujarat Campur, Opp. Gujarat Vidyapeeth, Asharm Road, Ahmedabad - 380 014.

Appearances:-

Mr. R.P. Ruparel, Ld. Advocate for the Plaintiff.
Mr. R.A. Patel, Ld. Advocate for the Defendant No.1.
Mr. J.R. Patel, Ld. Advocate for the Defendant No.2.

∴ JUDGMENT ∴

- 1 The plaintiff has preferred the present Civil Suit for seeking mandatory injunction in his favour declaring that he has a right to join the first LLB Classes and to appear for its examination without any technicalities of the laws and rules of defendant No.1 with a

direction to instruct the defendant No.2 to give admission to the plaintiff to join LLB First Year Classes.

2 Earlier the Coordinate Bench of this Court has passed an Order on 26.07.2017 whereby the plaintiff has been directed to produced oral as well as documentary evidence on or before 31.07.2017 or in the absence of the plaintiff, the suit order to be dismissed for default. Thereafter, on 31.07.2017, the Coordinate Bench of this Court has passed whereby the Coordinate Bench of this Court has dismissed the present suit under Rule 3 and 9 of Order IX and Rule 2 of Order XVII of the CPC.

3 Thereafter, the Ld. Advocate for the plaintiff has preferred Civil Misc. Application No.50 of 2019 whereby he has sought restoration of the present civil suit, which came to be allowed on 07.10.2022 whereby the Registry of this Court has been directed to restore the present civil suit and accordingly, the present suit restored.

4 The brief facts of the present suit are as under :

4.1 It is the case of the plaintiff that at present the plaintiff is carrying on his investment activities for shares and others since 1980. Formerly, the plaintiff was staying at Calcutta and had passed his H.Sc examination in the year 1976 from Calcutta University and had joined Bhowanipore Commerce College, Calcutta. The plaintiff had thereafter completed his B.Com examination at Calcutta University in the year 1979 successfully. Then the plaintiff shifted to Ahmedabad in the year 1980 for the business activities and is also

established here permanently.

- 4.2 The plaintiff has further submitted that the defendant No.2 is a law college under defendant No.1 university. The plaintiff had applied to defendant No.2 on 20/7/2000 and was asked to pay Rs.700 (500 towards fees of education + Rs.100 for eligibility certificate + Rs.100 misc. expenses). The plaintiff had paid forthwith as per demand of the defendant No.2, but unfortunately defendant No.2 did not issue the receipt nor given admission. Hence, he has taken the defendant No.2 as a party to the suit.
- 4.3 The plaintiff has further came out with the case that he, looking to his investment activities and the investment atmosphere, had thought that education of the law will help him in his investment activities for understanding the law points which he had to face in his every walk of life as a businessmen. Therefore, he approached to defendant No.2 for admission to law college classes, but after receiving Rs.700, defendant No.2 unfortunately did not issue any receipt, though asked often and often for the reason unknown to the plaintiff and best known to the defendant No.2.
- 4.4 That the defendant No.2 in due course of time had explained that as per defendant No.1's rules, a student has to complete his student life for 15 years including 3 years for graduation, whereas the plaintiff has completed 14 years in all as student life (studied for 11 years and 3 years for B.Com.). The plaintiff has passed his student life for 14 years, whereas as per the defendant No.1 norms, they

required 15 years for H.Sc. and graduation examination. The plaintiff is therefore short of one year as a student which will not allow the plaintiff to be joined for LLB examination with defendant No.2 and also will not allow to give examination for the first year of LLB. The rules of the defendant No.1 is therefore coming in the way of the plaintiff for joining the college.

4.5 It is further submitted by the plaintiff that he had tried his best to persuade the defendants that the Constitution of India does not make any such discrimination on technical grounds for joining the law college at any place in India wherever he chooses. The rules of the defendants are making discrimination between one degree holder of one registered university and one degree holder of another university. The plaintiff, as a citizen of India can go to any part of India and can study at any part of India and that there is no bar for the Indian citizen from doing his activities without any obstacles on the part of Government laws, on the part of the Central Government laws, State Government laws and establishments of Semi Government institutions.

4.6 The plaintiff was not given receipt for Rs.700/- which paid by the plaintiff to defendant No.2, though asked and after frustration for getting proper reply, was compelled to give notice dated 28/2/2001 to the defendants through advocate in a bonafide way to avoid litigation and to take a reasonable view for giving admission to the plaintiff in the law college. But, nothing is heard so far nor any satisfactory reply has been given by the defendants, and therefore,

the plaintiff is required to institute the present for the protection of his legitimate rights as an Indian citizen.

4.7 The plaintiff has further come out with the case that in the year of 1987-88, he had joined the Law college viz. Navgujarat Law College of defendant No.1 and was admitted as a student after completion of required all process of defendant No.1 University. That the ID Card was also issued in the name of plaintiff and the plaintiff paid the required fees and also attended the college. But, unfortunately the plaintiff has to leave as his attention was more concentrated for his business activities. That after granting admission to the plaintiff, the plaintiff had become the student of the defendant No.1 university. Under such circumstances, the defendants cannot refuse to give admission to the plaintiff for the course of LLB. It is submitted that the plaintiff is entitled to get the admission in LLB. That the defendants have wrongfully and illegally prevented the plaintiff to join the law college. Ultimately, the plaintiff has requested this Court to declaring that he has a right to join the first LLB Classes and to appear for its examination without any technicalities of the laws and rules of defendant No.1 with a direction to instruct the defendant No.2 to give admission to the plaintiff to join LLB First Year Classes.

5 Upon duly served with the summons issued by this Court, the defendants had appeared before this Court through his Ld. Advocates

- 6 In light of pleadings pleaded by the plaintiff, following issues came to be framed vide Exhibit-18 for adjudication of the present suit:-

:: ISSUES ::

1	Whether the plaintiff proves that he has passed HSC examination in the year of 1976 and B.Com examination in the year of 1979 in Calcutta University ?
2	Whether the plaintiff proves that he has tendered Rs.700/- to the defendant No.2 towards fees of First LLB, but receipt thereof was not issued to him ?
3	Whether the plaintiff proves that he has right to join the First LLB classes and to appear for its examination without any technicalities of the laws and rules of defendant No.1 ?
4	Whether the plaintiff proves that he has right to get admission the First LLB Classes ?
5	Whether the plaintiff is entitled to get injunction as prayed for ?
6	What order and decree?

- 7 The plaintiff has produced the following Oral as well as Documentary Evidences in support of his case :-

PLAINTIFFS' ORAL EVIDENCE:

SN.	Description	Exhibit
1	An affidavit of examination-in-chief of the plaintiff.	35

PLAINTIFFS' DOCUMENTARY EVIDENCE:

SN	Description	Exhibit
1	A certified copy of Marksheet of H.Sc, CBSE.	22
2	A certified copy of H.Sc Certificate.	23
3	A certified copy of Registration Certificate of University of Calcutta bearing No.6577 of 1977-78.	24

4	A certified copy of Marksheet of B.Com. Part-1.	25
5	A certified copy of Marksheet of B.Com. Part-2.	26
6	A certified copy of B.Com Certificate.	27
7	Original Fees Receipt of Navgujarat College.	28
8	Original receipt of ID Card receipt.	29
9	A certified copy of ID Card issued by Navgujarat College.	30
10	A certified copy of Eligibility Certificate issued by Gujarat University.	31
11	Original letter of plaintiff addressed to defendant No.2 qua fees paid.	32
12	Original letter of plaintiff addressed to defendant No.1 qua fees paid and others.	33
13	Original notice issued by plaintiff though lawyer addressing to defendants.	34

8 The Ld. Advocate for the plaintiff has submitted his evidence closing pursis vide Exhibit-19.

9 After considering above all written as well as oral submissions made by the plaintiff, my answers to the above referred issues are as under for the reasons stated herein below:

- 1. In the affirmative.**
- 2. In negative.**
- 3. In the affirmative.**
- 4. In the affirmative.**
- 5. In the affirmative.**
- 6. As per final order.**

:: REASONS ::**ISSUE NO. 1**

- 10** So far as the Issue No.1 is concerned, the plaintiff has produced his mark sheet of Higher Secondary Examination and Certificate of Higher Secondary Examination vide Exhibit-22 and Exhibit-23 respectively. Upon perusal of these documents, it is proved that the plaintiff had passed out his Higher Secondary Examination with SECOND division, in the month of May 1976.
- 11** Thereafter, the plaintiff has further produced his Registration Certificate vide Exhibit:24. Upon perusal of the same, it appears that the plaintiff had registered his name with UNIVERSITY OF CALCUTTA, vide Registration No.6577 /1977-78. The plaintiff has also produced his mark-sheet of B.Com part- I and B.Com part- II vide Exhibits-25 & 26 respectively. Upon perusal of the same, it transpires that in the header of mark-sheet, it has been written that it is a "B.Com Part II (Three year course). Therefore, considering the same, it can be said that the plaintiff had passed out his B.Com examination in the year 1979.
- 12** Finally, the plaintiff has produced a Degree Certificate issued by University of Calcutta, dated 21/01/1981 vide Exhibit-27. Upon perusal of the said Certificate, it is proved that the plaintiff had cleared his B.Com Examination in the year 1979 with Second Class.
- 13** Now against above all documents, the defendants have neither taken pain to cross-examine the plaintiff nor they have produced

any rebuttal evidence to disbelieve these documents. In absence of any contrary evidence, it can be said that plaintiff has successfully established that he had passed out the B.Com Degree Examination and he had obtained valid Commerce Graduate Degree. Therefore, in the light of this discussion, my answer for this issue is in Affirmative.

ISSUE NO. 2 :-

- 14** The Ld. Advocate for the plaintiff has contented that the plaintiff had applied for admission before the defendant No.2 and on 20/07/2000, he had paid Rs.700/- (Rs.500/- towards fees of education + Rs.100/- for Eligibility Certificate + Rs.100/- for misc. Expenses), but defendant No.2 had not issued receipt for the same. To prove the same, the plaintiff has produced a letter addressed to defendant No.2 by him vide Exhibit:32. The plaintiff has also produced a letter addressed to defendant No.1 by him vide Exhibit:33. Further, the plaintiff has produced legal notice issued by him addressing to the defendants which is on record at Exhibit:34.
- 15** I have perused above documents produced by the plaintiff, but the plaintiff has not produced any admission form and generally without filling of admission form, no one would pay fees in advance. Of course, this Court is very well aware that the plaintiff could not have a copy of his admission form, but during trial of this suit, he might examine a witness from the defendant No.2 and sought to produce all the relevant documents related to this admission

process, but he has not grab this opportunity. Further, upon perusal of Exhibits-32 and 33's letters, it transpires that in the said Exhibit-32's letter, the plaintiff had stated that he had paid Rs.210/- towards the fees and he himself had strike out the Rs.700/-. Thereafter, in the Exhibit-33's letter, the plaintiff had written that he had paid Rs.700/- towards the fees. Therefore, this discrepancies regarding amount of fees found in these two documents, automatically disprove the plaintiff's claim that he had paid Rs.700/- towards the fees and the defendant No.2 had not issued any receipt thereof. Hence, in the light of these discussions, my answer for this issue is in Negative.

ISSUE NOS. 3 & 4 :-

- 16** As per the discussions above, it is proved that the plaintiff is possessing valid Commerce Graduate Degree from Calcutta University. As per plaintiff's contention, the defendants had taken objection that the plaintiff had not completed $12+3 = 15$ years study before applying for admissions got Three Years LLB. Course and he had completed only $11 + 3 = 14$ year study, and therefore, he is not eligible to get admission in 3 year LLB Course.
- 17** As discussed earlier, the defendants have not taken care to remain present before this Court, and therefore, this Court has to believe plaintiff's contention true and except this 14 years study and 15 years study no other hurdle came in way of the plaintiff to get admission in 3 year LL. B. Course. So coming directly to this

objection, according to this Court, the general criteria to get admission in 3 year LL.B Course, the student should possess the any Bachelor's Degree from the recognized university. Therefore, the key criteria to consider eligibility to get admission is "Bachelor's Degree" irrespective of the numbers of the years spent as a student life. Herein, the plaintiff is possessing "Bachelor of Commerce Degree" from the recognized university - "Calcutta University". Therefore, the defendants have no right to denied admission merely on the ground that the plaintiff had studied only for 14 years (11+3) and not for 15 years (12+3). Hence, in the light of these discussions, my answers for these issues are in Affirmative.

ISSUE NOS. 5 & 6 :-

18 Now, to conclude these discussions, it is proved that the plaintiff is possessing valid B.Com degree certificate, of course, the defendants are at liberty to re-verify the marksheets at the time of granting admission to the plaintiff. After verification, if these degree certificates and mark-sheets are found true and correct and plaintiff would be agreed to pay requisite fees and agreed to complete other formalities as per rules and regulations of the defendants then the defendants should not deny to enroll the plaintiff in 3 year LL. B. Course merely on the ground that he had not studied for $12+3 = 15$ years. Hence, in the light of above discussions, I am of the view that the plaintiff is entitled to get the injunction as sought for. Therefore, my answer for the Issue No.5 is in Affirmative and in the interest of the justice, I pass the following final order for the Issue

No.6 :-

-:: O R D E R ::-

- A.** The present suit preferred by the plaintiff is hereby allowed.
- B.** The defendants are hereby directed to enroll the plaintiff viz. Shashi Kumar Mohata in 3 year LL. B. Course from the next academic year i.e. 2025-26, subject to fulfillment of following conditions:-

Conditions :-

- (i) The plaintiff shall produce his all original mark-sheets and degree certificate before the defendants within One month from the date of this order, for proper verification;
- (ii) The defendants would be at liberty to cross-verify the mark-sheets and degree certificate produced along with the admission form by the plaintiff and if they find any irregularities or discrepancy in these documents then defendants would be entitled to take appropriate action including denial of admission;
- (iii) The plaintiff shall comply and shall continue to comply the all the requisite formalities of the defendants to enroll himself as a student in the college of defendants;
- (iv) The defendants shall not deny the admission merely on the ground that the plaintiff had not completed his study for 12+3 =15 years as student life, of

course the defendants would be at liberty to deny admissions on non-compliance of their rules and regulations.

C. The defendants shall bear the plaintiff's suit cost.

D. Final Decree to be drawn up accordingly.

Pronounced and Signed in open Court today on 16th day of November, 2024.

DATE : 16.11.2024
PLACE : AHMEDABAD.

(BHAVESH K. AVASHIA)
JUDGE
CITY CIVIL COURT,
AHMEDABAD.
(UNIQUE ID CODE NO.GJ00816)

Ravi oza