

**1993(2) G. L. H. 691  
M. B. SHAH, J.**

Hetalkumar B. Shah ...Petitioner  
Versus  
Maharaja Sayajirao University and Anr. ...Respondents

Special Civil Application No. 3928 of 1992 D/- 25-6-1992\*

\*Application praying for a writ of mandamus directing respondent to relax the condition of eligibility and, etc.

**Education - Educational Institutions - Admissions - Administrative Law - Judicial Review of administrative action - Constitution of India - Art. 226 - Eligibility criteria for admission to an autonomous institution like the Indian Institute of Management - Requirement that those who have not completed Bachelor's Degree examination at the time of being admitted to the institution would have to produce a certificate on a particular date from the Registrar to the effect that the student has appeared [page 691] for the examination in all subjects - Inability of student to obtain such a certificate as examinations in the University were delayed - Held, in such cases Court cannot ask an autonomous institution to relax the conditions for eligibility.**

It is apparent that the eligibility criteria for admission to Post-Graduate Programme in Management is that a candidate must have obtained Bachelor's Degree or its equivalent. However, a chance is given to those candidates who are to appear for the final year examination for having a Bachelor's degree and it is provided that they can appear in the test which is held in December 1991, but at the same time such candidates, if selected, will be allowed to join the programme only if they submit a certificate at the time of registration, i.e. 30th June 1992 that they have appeared for the examinations (including practicals) in all the subjects required for obtaining the Bachelor's degree. It is also provided that non-fulfilment of the requirement would automatically result in the cancellation of the provisional admission. In this view of the matter, it is apparent that the aforesaid condition of a candidate appearing in the examination for obtaining the Bachelor's degree prior to joining the Post-Graduate Programme in Management is a condition precedent. It cannot be argued that this condition is not required to be fulfilled by a candidate. (Para 7)

It cannot be stated that the date fixed by respondent No. 2 is in any way arbitrary or unreasonable. Further, because of the cut-off date in any case some hardship may be caused to some persons but that would hardly be a ground for its relaxation. Merely because the petitioner or some other candidate could qualify for getting the admission to the course if the last date for appearing in the examination is shifted from 29th June 1992 to 15th July 1992 would hardly be a ground for holding that the date fixed by respondent No. 2 is in any way arbitrary or irrational. (Para 9)

It cannot be said that respondent No. 2 has taken any irrelevant factors into account for holding that the said condition is mandatory and it is required to be fulfilled before granting admission in the post-graduate courses. Normally in a post-graduate course admission is granted to a candidate who has cleared his graduation. Merely because respondent No. 2 gave a chance to those students who have not obtained Bachelor's degree to appear in the test for getting admission to post-graduate course, it would not mean that even though they do not clear up the examination before commencement of the course, they should be admitted to the said course. In any set of circumstances, it cannot be said that the stand taken by respondent No. 2 in not relaxing the said condition is in any way unfair, unreasonable and de hors the purpose. Presuming that relaxation of such condition is permissible, yet such relaxation must be given by some defined guidelines or for some defined object. In this case, it cannot be said that respondent No. 2 ought to have relaxed the mandatory condition in favour of the petitioner. The respondent No. 2 has taken into consideration the nature of the respondent, its purpose and consequences of its relaxation on its educational programme. (Para 10)

Under Art. 226 the High Court would have no jurisdiction to sit in appeal against the decision of the autonomous body not to relax the condition in favour of the petitioner. The Court must not usurp the discretion

of public authority which is empowered to take its own decision. (Para 12) [[@page692](#)]

**Book Referred:**

*The Construction of Statutes*, by Crawford (Para 11)

**Cases Referred:**

1. State of U. P. v. D. K. Singh, AIR 1987 SC 190 (Para 10)
2. G. B. Mahajan v. Jalgaon Municipal Council (1991) 3 SCC 91 (Para 12)

**Appearances:**

Mr. J. M. Thakore, Advocate General with Mr. J. R. Nanavaty for the petitioner

Mr. S. N. Shelat for respondent No. 1

Mr. K. S. Nanavaty for respondent No. 2

**M. B. SHAH, J:-**

1. At the request of the learned Counsel for the parties, at the notice stage the matter is finally heard.
2. The question involved in this petition is whether this Court would have jurisdiction under Article 226 of the Constitution to give direction to the autonomous institution to relax the condition and give admission to IIMs Post-Graduate Programme in Management by relaxing the eligibility condition because it acts harshly on the petitioner.
3. The petitioner is presently pursuing the course in B. E. (Electronics) at the M. S. University of Baroda. He has completed all Semesters successfully except the final year of B. E. The Indian Institute of Management conducted a Common Admission Test in December 1991 for grant of admission to the Post-Graduate Programme beginning from July 1992. The eligibility criteria laid down for the said test prescribes that a candidate must have a Bachelor's degree (or equivalent) in any discipline recognised by the Association of Indian Universities. It also carves out an exception for those candidates who are to appear for the final examination for the Bachelor's degree. It provides that such candidates, if selected, will be admitted provided they complete all requirements for obtaining the degree before 30th June 1992. The Common Admission Test was conducted on December 8, 1991 for grant of admission to 1992 onwards programme. 24594 students appeared at the test. For admission to IIM, Ahmedabad 12994 students applied. To 218 students provisional admission was offered. 10 did not accept it. 9 students out of 10 are appearing in their final examination.
4. It is the say of the petitioner that the petitioner received a letter on 10-12-91 from respondent No. 2 informing him that he has been selected for provisional admission to IIM's Post-Graduate Programme in Management for the session beginning from June 29, 1992 subject to the condition mentioned in the said letter. One of the conditions is that the petitioner should submit a certificate from the Registrar of respondent No. 1 issued before 29th June 1992 that the petitioner has completed all the requirements such as theory and practical examinations for obtaining Bachelor's degree, if the petitioner was in final year of the Bachelor's degree course at the time of applying for the Post-Graduate Programme in Management. It is the say of the petitioner that the final year examination of B. E. (Electronics) is normally held and completed in the month of May of the year. It is his contention that at Baroda in the University Campus the Convention of All India Science Congress was held and on that account Seventh Semester examination was delayed and it was to be held on 20th January 1992 instead of December 1991. [[@page693](#)] Thereafter there was agitation by the students and therefore also the examination of the Seventh Semester was delayed and was held on 20th February 1992. It is his say that on account of the aforesaid situation the final examination is delayed and is now scheduled to be held on 6th July 1992. This situation has arisen for no fault of the petitioner. In view of the aforesaid circumstances, it is not possible for the petitioner to submit to respondent No. 2 the certificate from the Registrar of respondent No. 1 that he has completed all requirements of appearing in final year B. E. Degree examination including practicals

in all subjects required for obtaining Bachelor's degree. He, therefore, approached respondent No. 2 to permit him to join the course beginning from 29th June 1992. However, the respondents expressed their inability to accommodate the petitioner. It is his contention that because of the aforesaid stand taken by respondent No. 2 the petitioner is likely to lose admission which he has got to IIM's Post-Graduate Programme in Management. He has, therefore, filed this petition.

5. The petitioner has prayed in this petition that the respondent-University be directed to hold the examination of Second Semester B. E. IV (Electronics) so as to complete the same before 29th June 1992 or, in the alternative, respondent No. 2 be directed to allow the petitioner to join the course on 29th June 1992 subject to the petitioner's producing the certificate on completion of the examination to be held on 6th July 1992. At this stage, it should be stated that the learned Counsel for the petitioner does not press for the first prayer that the University be directed to hold the examination prior to 29th June 1992.

6. At the time of hearing of this matter, the learned Counsel for the petitioner vehemently submitted that by a rigid interpretation of the rules by respondent No. 2, the petitioner would suffer irreparable loss and it will cause unimagined undue hardship to the petitioner. For no fault of his examinations are not held prior to June 1992. It is, therefore, submitted that this Court should interfere and grant appropriate relief in favour of the petitioner.

7. For considering the aforesaid contention it would be necessary to refer to the relevant eligibility condition for admission to Post-Graduate Programme in Management. It is as under:

"Eligibility-

(1) Bachelor's degree (or equivalent) in any discipline with minimum 50 per cent aggregate marks (45 per cent for SC/ST) and (2) Minimum 50 per cent aggregate marks (45 per cent for SC/ST) in any one of the examination held by a Board/University for the 10th or 12th standard. Candidates appealing for the final Bachelor's degree examination can also apply. However, such candidates, if selected, will be allowed to join the programme only *if they submit certificates at the time of registration, 30th June 1992*, from the Principal/Registrar of their college/institute that they have appeared for the examinations (including practicals.) in all *the subjects required for obtaining the Bachelor's degree*. Further, they would have to produce the mark-sheet and a certificate of having passed the Bachelor's degree examination with minimum 50 per cent aggregate marks (45 per cent for SC/ST) on or before the registration date of the Second Term, which would be in the first week [*@page694*] of October 1992. *Non-fulfilment of these requirements will automatically result in the cancellation of the provisional admission.*" (Emphasis added.)

In view of the aforesaid condition it is apparent that the eligibility criteria for admission to Post-Graduate Programme in Management is that a candidate must have obtained Bachelor's Degree or its equivalent. However, a chance is given to those candidates who are to appear for the final year examination for having a Bachelor's degree and it is provided that they can appear in the test which is held in December 1991, but at the same time such candidates, if selected, will be allowed to join the programme only if they submit a certificate at the time of registration, i.e. 30th June 1992 that they have appeared for the examinations (including practicals) in all the subjects required for obtaining the Bachelor's degree. It is also provided that non-fulfilment of the requirement would automatically result in the cancellation of the provisional admission. In this view of the matter, it is apparent that the aforesaid condition of a candidate appealing in the examination for obtaining the Bachelor's degree prior to joining the Post-Graduate Programme in Management is a condition precedent. It cannot be argued that this condition is not required to be fulfilled by a candidate. Therefore, the learned Advocate General has rightly not submitted that this condition is not a condition precedent.

8. In the affidavit-in-reply it has been further pointed out that the Indian Institution of Management is conducting course at four places, namely, Ahmedabad, Calcutta, Bangalore and Lucknow. The Institutes invites applications for Common Admission Test for all the four institutions for the course of Post-Graduate Programme in Management; for the course commencing from 30th June 1992 the applications were invited by way of advertisement in leading newspapers all over country in the last week of August 1991; the Common Admission Test was held on December 3, 1991; the advertisement in the newspaper made it abundantly clear

that the candidates appearing for the final examination for Bachelor's degree can apply for the test but such candidates, if selected, for the programme will be admitted provided they complete all requirements for obtaining the degree before 30th June 1992; if the aforesaid condition is relaxed, it would amount to discrimination to those candidates who has not applied or appeared for the test on the ground that they were not likely to fulfil the condition of appearing in the examination prior to 29th June 1992; relaxation of condition in one case is likely to open a flood-gate of litigation against the Institute as other similarly situated candidates who had either not appeared at the examination or who have not applied for appearing in the examination would be discriminated. Further, it has been pointed out that the date 30th June 1992 is fixed after taking into consideration the fact that the Institute commences its programme on that day; the courses conducted by the Institute are professional courses which require rigorous training and continuous follow-up and once the Institute commences its courses, it does not allow the students to engage themselves in any other activity as the training imparted for such courses is required to be undergone by the candidates rigorously; once a student fails to attend the regular training programme, even for a short duration of 3 or 4 days, it would be impossible for the student to cope with the lost studies; the pace of learning and teaching in the respondent Institute is quite fast and in fact the basics and fundamentals of the courses are almost covered in the first month itself and therefore for any student [ @page695 ] this initial learning is essential for the subsequent courses offered in the second and third Terms of the programme. It is, therefore, submitted that the Institute insists upon the students to register for programme on the opening day and attend class sessions regularly and it is compulsory for the students participating in the class sessions to reside within the premise of the institution so that for no reason whatsoever the student misses any of the class sessions.

**9.** Considering the aforesaid facts, it cannot be stated that the date fixed by respondent No. 2 is in any way arbitrary or unreasonable. Further, because of the cut-off date in any case some hardship may be caused to some persons but that would hardly be a ground for its relaxation. Merely because the petitioner or some other candidate could qualify for getting the admission to the course if the last date for appearing in the examination is shifted from 29th June 1992 to 15th July 1992 would hardly be a ground for holding that the date fixed by respondent No. 2 is in any way arbitrary or irrational.

**10.** The learned Counsel for respondent No. 2 submitted that a student or a candidate has no legal or equitable right for relaxation of mandatory condition and autonomous body is required to follow the standard or norms laid down by it otherwise it would lead to charge of favouritism or nepotism. He, therefore, submitted that it cannot be stated that respondent No. 2 irrationally and arbitrarily refused to relax that condition of obtaining certificate of appearing in the examination including practicals prior to 26th June 1992. He submitted that the stand taken by the authority cannot be dubbed as rigid or irrational. He pointed out that it is rational and reasonable because of the fact that the Programme for Post-Graduate course is to begin on 30th June 1992. Respondent No. 2 in its advertisement has made it clear to all candidates that candidates who had obtained Bachelor's Degree is entitled to get admission. Still however, that condition is relaxed in favour of a candidate who can complete his examination for obtaining Bachelor's Degree prior to 29th June 1992. If this condition is relaxed at this stage, it would mean that for favouring certain candidates this condition is relaxed. He relied upon the decision in the case of *State of UP. v. D. K. Singh*, A.I.R. 1987 Supreme Court 190, wherein the Supreme Court set aside the order passed by the High Court by observing as under:

"We also notice that admissions to post-graduate courses in all medical colleges in Uttar Pradesh are made once a year only and never twice a year. We do not think that the authorities can be said to have acted arbitrarily and unreasonably in not departing from the practice which they had invariably been following. When an academic year should commence and when it should end is eminently a matter for the education authorities and not for the court. We cannot dislocate the time schedule of the university merely for the convenience of a few students."

In my view, this submission requires to be accepted. It cannot be said that respondent No. 2 has taken any irrelevant factors into account for holding that the said condition is mandatory and it is required to be fulfilled before granting admission in the post-graduate courses. Normally in a post-graduate course admission is granted to a candidate who has cleared his graduation. Merely because respondent No. 2 gave a chance to those students who have not obtained Bachelor's degree to appear in the test for getting admission to post-graduate course, it would not mean that even though they do not clear up the [ @page696 ] examination before

commencement of the course, they should be admitted to the said course. In any set of circumstances, it cannot be said that the stand taken by respondent No. 2 in not relaxing the said condition is in any way unfair, unreasonable and de hors the purpose. Presuming that relaxation of such condition is permissible, yet such relaxation must be given by some defined guidelines or for some defined object. In this case, it cannot be said that respondent No. 2 ought to have relaxed the mandatory condition in favour of the petitioner. The respondent No. 2 has taken into consideration the nature of the requirement, its purpose and consequences of its relaxation on its educational programme.

**11.** However, the learned Counsel for the petitioner submitted that even though the requirement of the condition is mandatory, yet in certain cases, in order to remove the manifest injustice, for equitable and humane consideration, this Court would have jurisdiction to direct respondent No. 2 relax the said condition. For this purpose he relied upon the following passage of paragraphs 271 & 274 from *The Construction of Statutes* by Crawford:

"271. Even where a statute is clearly mandatory or prohibitory, yet, in many instances, the courts will regard certain conduct beyond the prohibition of the statute through the use of various devices or principles. Most, if not all of these devices find their justification in considerations of justice. It is a well-known fact that often to enforce the law to its letter produces manifest injustice, for frequently equitable and humane considerations, and other considerations of a closely related nature, would seem to be of a sufficient calibre to excuse or justify a technical violation of the law."

"274. In order to maintain a practical and humane system of statutory law. occasions will arise where the meeting of the prohibitory or mandatory requirements of the law may be excused or overlooked. Nevertheless, it will be in only extreme cases where compliance with the law may be excused. Many excuses have been set up by way of defense without success."

In my view, reliance upon the aforesaid passages is without any substance mainly because it provides for exceptions to the mandatory requirement which provides that in some set of circumstances non-compliance with statutory provision would not be punishable and non-compliance can be excused. It would have no bearing for holding that even though the condition prescribed by respondent No. 2 for appearing in examination prior to 29th June 1992 is mandatory, yet the said condition should be relaxed in favour of the petitioner because he could not appear in the examination as the examinations are not held by the University prior to 29th June 1992. It cannot be said that there is technical violation of the guideline or the rule framed by the respondent institution. Nor can it be said to be an extreme case where compliance with the rule can be directed to be excused. If the condition is relaxed in favour of the petitioner, it would be relaxed in number of cases where final year examination is or is likely to be delayed. Hence no such direction as prayed for is required to be given.

**12.** The learned Counsel further submitted that as the action of respondent No. 2 in not relaxing the condition in favour of the petitioner is unreasonable, this Court should interfere and for that purpose he relied upon the decisions of the Supreme Court in the case of *G. D, Mahajan v. Jalgaon Municipal Council*, (1991) 3 Supreme Court Cases 91, [*@page697*] wherein it has been observed as under:

"37. It was urged that the basic concept of the manner of the development of the real estate and disposal of occupancy rights were vitiated by unreasonableness. It is a truism, doctrinally, that powers must be exercised reasonably. But as Prof. Wade points out:

"The doctrine that powers must be exercised reasonably has to be reconciled with no less important *doctrine that the court must not usurp the discretion of the public authority which Parliament appointed to take the decision*. Within the bounds of legal reasonableness is the area in which the deciding authority has genuinely free discretion. If it passes those bounds, it acts *ultra vires*. The Court must therefore resist the temptation to draw the bounds too tightly, merely according to its own opinion. It must strive to apply an objective standard which leaves to the deciding authority the full range of choices which the legislature is presumed to have intended. Decisions which are extravagant or capricious cannot be legitimate. But if the decision is within the confines of reasonableness, it is no part of the court's function to look further into its merits. 'With the question

whether a particular policy is wise or foolish the court is not concerned; it can only interfere if to pursue it is beyond the powers of the authority'...."

The Court thereafter considered the doctrine of unreasonableness and relied upon the decision in the case of *Chief Constable of the North Wales Police v. Evans* (1982) 3 All ER 141, 144, and observed as under:

"When Lord Denning, H. R. stated in the Court of Appeal that 'Not only must (the probationer-Counsellor) be given a fair hearing, but the decision itself must be fair and reasonable' (Emphasis supplied.), the House of Lords thought that the statement of the learned Master of the Rolls, if allowed to pass into law, would wrongly transform the remedy of judicial review, as the statement would imply that the court can itself sit, as in appeal, in judgment of the reasonableness of the decision instead of on the correctness of the 'decision-making process'. The purpose of judicial review' it was stated: (All ER p. 144)

'... is to ensure that the individual receives fair treatment, and not to ensure that the authority after according fair treatment, reaches on a matter which it is authorised or enjoined by law to decide for itself a conclusion which is correct in the eyes of the court."

In my view, the aforesaid decision hardly assists the contention raised by the petitioner. It is made abundantly clear from the aforesaid observations that judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority, after according fair treatment, reaches on a matter which it is authorised or enjoined by law to decide for itself a conclusion which is correct in the eyes of the court. Under Article 226 this Court would have no jurisdiction to sit in appeal against the decision of the autonomous body not to relax the condition in favour of the petitioner. The Court must not usurp the discretion of public authority which is empowered to take its own decision. In any set of circumstances, by any standard it would be difficult to arrive at the conclusion that the decision taken by respondent No. 2 is either capricious, arbitrary or in any way unreasonable as it is apparent that it has decided the question after referring to all relevant factors.

**13** . Hence there is no substance in the [*@page698*] petition and it is, therefore, rejected. Notice discharged. Interim relief stands vacated.

(NSS) Petition dismissed.