

W.P.No.9314/2017**24.07.2017**

Shri Quazi Parvez, learned counsel for the petitioner.

Shri Vibhudhendra Mishra, learned counsel for respondent no.1.

Shri Piyush Dharmadhikari, learned Government Advocate for respondent no.2-State.

The petitioner has filed the present petition praying for the following reliefs:-

(I) It is, therefore, prayed that the writ in the appropriate nature be issued for commanding respondent no.1 Awadhesh Pratap Singh University, Rewa, to strictly adhere to the Bar Council of India Rules, which is Rule 7 with respect to providing percentage of marks for the students desirous of seeking admission in Bachelor of Laws (Hons.) course.

(II) Any other writ, order or direction may also kindly be passed.

It is submitted by the learned counsel for the petitioner that legal education in the country is governed by the Bar Council of India and the Bar Council of India has framed the Bar Council of India rules where under Rule 7, which falls under Chapter 2 dealing with standards of professional legal education, provides that the minimum percentage of marks required to be obtained in the qualifying examination for admission to the B.A., LL.B. course should be 45% of the total marks in the case

of general category candidates, 42% marks for OBC category candidates and 40% of the total marks in cases of SC and ST category candidates. It is submitted that the respondent-University, totally ignoring the aforesaid rules of the Bar Council of India which are binding, has prescribed 50% marks as the minimum cut-off marks for the general category candidates and 45% marks for the SC and ST candidates for obtaining admission in the B.A. and LL.B. (Hons.) course by Ordinance no.116 of the University.

The learned counsel for the petitioner submits that the ordinance promulgated by the University is in the direct contravention of the rules framed by the Bar Council of India and in such circumstances necessary directions be issued to the respondent-University to lower the minimum cut-off marks for admissions prescribed by them and bring them in line with the rules of the Bar Council of India. Learned counsel for the petitioner further submits that because of the higher percentage of marks prescribed by the University as the minimum eligibility criteria in the petitioner-college, which is affiliated to the University, it would suffer adversely as the students who have obtained more than 45% marks but below 50% marks and are desirous of obtaining admission in the petitioner-college would be denied the same thereby depriving the petitioner-college of students.

The learned counsel for the respondent-University appearing on an advance copy submits that the rules

framed by the Bar Council of India only provides for the minimum percentage of marks that can be prescribed and does not prohibit or prevent the University from prescribing higher cut-off percentage for making admission to the B.A. and LL.B. (Hons.) course. It is submitted that in such circumstances, looking to the fact that the University has introduced the B.A. and LL.B. (Hons.) course, which is a five year course, the University has prescribed higher percentage of marks to obtain better more qualified and meritorious students. It is submitted that in view of the provisions of Rule 7 of the Bar Council of India Rules, the ordinance framed by the University is in consonance with law and, therefore, the contention of the petitioner be rejected.

Having heard the learned counsel for the parties, we are of the considered opinion that the petition filed by the petitioner is misconceived and meritless.

A bare perusal of Rule 7 of the Bar Council of India rules makes it clear that the Bar Council of India, while prescribing the minimum qualifying marks for admission, has laid down that "the Bar Council of India may from time to time stipulate the minimum percentage of marks not below 45% of the total marks in case of general category candidates, 42% marks for the OBC category candidates and 40% of the total marks for the SC and ST category candidates to be obtained for the qualifying examination". A bare perusal of the rule also makes it clear that the Bar Council of India while framing the rules

has used the words "not below 45%" which makes it abundantly clear that the University cannot prescribe the minimum qualifying marks or percentage to be below 45% marks but can certainly prescribe a higher qualifying percentage of marks. A perusal of Ordinance 116 of the University indicates that the University has prescribed 50% as the qualifying marks which is in accordance with the rules framed by the Bar Council of India Rules. We are also of the considered opinion that the interpretation given to Rule 7 by the petitioner to the Bar Council of India Rules cannot be accepted as the rule specifically permits the University to prescribe the minimum qualifying percentage of marks not be below 45% marks without specifying the upper limit and in such circumstances, we do not find any merit in the contention of the petitioner.

The petition is accordingly dismissed.

(R. S. JHA)
JUDGE

(NANDITA DUBEY)
JUDGE

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