

(1997) 03 KAR CK 0041
In the Karnataka High Court
Case No : Writ Petition No. 5370 of 1997

A. Jayaram

APPELLANT

Vs

State of Karnataka Represented by Director of Pre-university
Education and Another - Represent

RESPONDENT

Date of Decision : 18-03-1997

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1997) 4 KarLJ 307

Hon'ble Judges : Tirath S. Thakur, J

Judgement

1. The constitutional validity of Regulation 18 of the Regulations governing the Courses of Study and Scheme of Examination of two year Pre-University Course is what has been called in question in the present writ petition. The Regulation reads thus:-

"18(a) A candidate who has passed the II year examination in all the subjects may reject and his/her option, the result in a subject/subjects or part or parts. The candidate may opt for the rejection only twice and within three subsequent examination from the date of II PUC examination in the first instance;

(b) Application for rejection of results in the prescribed form shall be submitted by the candidate within thirty days after the announcement of the results in the case of annual examination and fifteen days in case of supplementary examination;

(c) Provided that such an option shall be final and irrevocable subsequently under any circumstances and there shall be no provision for restoration of marks secured in the earlier examination written by the candidate after the rejection is permitted".

2. A plain reading of the above would show that the same entitles a candidate who has passed the II year examination in all the subjects to reject the result in a given subject or subjects, provided that such option can be exercised by the

candidate only twice within three subsequent examination from the date of the II PUC examination held in the first instance.

3. The petitioner's grievance is that the restrictions placed by the Regulation upon the number of attempts or in other words the number of rejections he can opt for is legally bad. The argument is that since a candidate who has failed in the examination can go on reappearing any number of times till he passes, the Regulation in so far as it restricts the number of attempts that a candidate who has rejected his result is bad and discriminatory. I however find no substance in the challenge mounted by the petitioner. The right to reject the result in a subject or subjects is conferred by Regulation 18 alone. No such right inheres in the candidate concerned. That being so, the right can be claimed only in the manner and to the extent permitted by the Regulation. If the University has in its wisdom considered two rejections to be enough for allowing a candidate to improve his result by rejecting the earlier result, no fault can be found with the same particularly when in matters relating to academic excellence and standards the University and its academic bodies enjoy considerable latitude. In *University of Mysore and Others v I. Gopala Gowda*, AIR 1965 SC 1932, the question that arose for consideration was whether the University could provide for weeding out of candidates who had failed to pass the course within the prescribed period or in the prescribed number of attempts. Upholding the power conferred by the Regulation upon the University the Court observed thus:

"Admission to a course or branch of study depending upon possession of the minimum qualifications prescribed does not divest the Academic Council of its control over the academic career of the student, for the Council has for maintaining standards the power to prescribe schemes of examinations, and also to prescribe conditions on which students shall be admitted to the examinations. Power to prescribe conditions on which a student may be admitted to the examinations, in our opinion, necessarily implies the power to refuse to admit a student in certain contingencies, for the power to admit to an examination implies the power to weed out students who have on the application of a reasonable test proved themselves to be unfit to continue the course or prosecute training in that course. If on account of general inaptitude for being trained in a course or on account of supervening disability to prosecute a course of study, a student admitted to that course is found by the Academic Council to be unfit to prosecute his training, it would, in our judgment, be within the power of the Academic Council, in exercise of its authority to control and maintain standards, and also of its authority to prescribe conditions on which students may be admitted to examinations, to direct that the student shall discontinue training in that course. And failure by a student to qualify for promotion or degree in four examinations, is certainly a reasonable test of such inaptitude or supervening disability. If after securing admission to an institution imparting training for professional courses, a student may be held entitled to continue indefinitely to attend the institution without adequate application and to continue to offer himself for successive examinations, a lowering of academic standards

would inevitably result. Power to maintain standards in the course of studies, in our judgment, confers authority not merely to prescribe minimum qualifications for admission, courses of study, and minimum attendance at an institution which may qualify the student for admission to the examination, but also authority to refuse to grant a degree, diploma, certificate or other academic distinction to students who fail to satisfy the examiners at the final examination, and to direct that a student who is proved not to have the ability or the aptitude to complete the course within a reasonable time to discontinue the course. There is no warrant for restricting the expression "maintenance of the standards" only to matters such as minimum attendance, length of the course and prescription of minimum academic attainments".

4. The above decision is a complete answer to the present case also. The Regulation having limited the number of rejections to only two, the petitioner cannot claim any such right after he has exercised the permissible number of options. The argument that there is a discrimination between a student who fails and one who has passed in the matter of number of chances admissible to them does not impress me. A candidate who has failed in the examination is as against a candidate who has passed a distinctly different class. The result of the examination clearly places them in two different categories. Permitting the failed candidate to reappear even after he has availed two such chance cannot therefore be compared with permitting a candidate who has passed but wants to reject his result for improving the same. There is no merit in this petition which fails and is accordingly dismissed, but in the circumstances, without any orders as to costs.