

(2016) 01 KAR CK 0175

In the Karnataka High Court

Case No : Writ Petition Nos. 111539-541/2014 (EDN-AD)

Abhijit and Others

APPELLANT

Vs

The Vice Chancellor, Visvesvaraya Technological University,
Belgaum and Others

RESPONDENT

Date of Decision : 12-01-2016

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2016) 01 KAR CK 0175

Hon'ble Judges : B. Veerappa, J.

Bench : Single Bench

Advocate : Veeresh R. Budihal, Advocate, for the Appellant; K. Anandkumar, Advocate, for the Respondent

Final Decision : Partly Allowed

Judgement

B. Veerappa, J.—1. The present petitioners were studying in respondent Nos. 3 and 4 colleges are before this Court for writ of certiorari to quash the circular dated 05.08.2014 insofar as it relates to the Bachelor of Engineering/Bachelor of Technology course, fixing the maximum tenure of completion of course at 8 years and a writ of mandamus to allow the petitioners to complete their course within the duration of 10 years as provided to other students, contending that the petitioners are enrolled with the respondent/colleges to prosecute the Bachelor of Engineering course and they have joined B.E. course from the academic year 2006-07 onwards and they have prosecuting the same. It is further contended that Visvesvarayah Technological University is a University established under the Visvesvaraya Technological University Act, 1994 with an object to establish incorporate an University for the purpose of ensuring proper and systematic instruction, teaching, training and research in development of Engineering Technology and allied Science. In terms of Section 19 of the said Act, Authorities of the University are established and the said Authorities are the Executive Council and the Academic Senate. As per the provisions of Section 20

of the Act provided powers and functions of the Executive Council and in terms of Section 20(n) of the Act, the Executive Council shall make regulations relating to courses of study leading to degrees, diplomas and certificates and the Executive Council has from time to time made regulations as regards various courses governed by the University. One of the regulations governing the course of B.E. prior to the academic year 2006-07 was made as regards the course of B.E. In terms of regulation OB 6.2 the maximum tenure for completion of the course of B.E. was stipulated for 8 years.

2. The petitioners further contended that the students ought to have been admitted to the course for the academic year 2006-07 and in the case of lateral entry, the students admitted in the academic year 2008-09 and the rules governing the promotion of the students to the next year of the degree according to the respondent Nos. 1 to 3 are as follows:

3. It is the further case of the petitioners that the Executive Council has not altered the said regulation governing the maximum duration for the course completion. The students enrolled for the course of B.E. prior to 2006-07 were also required to complete the course within a period of eight years. The same has been continued for students for the academic year 2006-07. The University in order to overcome from the situation of the students unable to clear the course and enable them to complete the course has been issuing a periodical circulars by fixing the time limit/maximum duration for completing the B.E. course. In pursuance of the same, on 27.08.2010, the respondent No. 1 issued a circular in continuation to earlier circulars and clarified regarding the maximum duration of the U.G. (Under Graduate - B.E.) courses. In view of the said circular, the petitioners permitted to complete the U.G. courses till they complete 10 years duration. The University had also permitted the students admitted for the academic year 2002-03 to 2005-06 to complete their course in 10 years of duration. But surprisingly, for the students who had taken the admissions for the subsequent years has not been provided with the said benefit and the students like petitioners have been deprived of availing the benefit of completing the course that has been given to the students who had been admitted earlier to them.

4. It is further case of the petitioners that this Court in identical circumstances, the students of different colleges have granted an interim order permitting the petitioners therein to continue their course during the pendency of the writ petitions and this Court in W.P. No. 45095/2015 and connected matters has disposed of the writ petitions directing the students/petitioners therein filed a detailed representations to the 2nd respondent - University and directed the 2nd respondent -University to consider the representations and pass orders in accordance with law. Therefore, the petitioners are before this Court for the relief sought for.

5. I have heard the learned counsel for the parties to the lis.

6. Shri Veeresh R. Budihal, learned counsel for the petitioners strenuously contended that the impugned circular issued by the 2nd respondent is in utter violation of Article 14 of the Constitution of India, since students who joined the course earlier to 2006-07 were given the benefit for completion of course (B.E.) within a period of 10 years and students joined subsequent to the year 2006-07 onwards including the petitioners they have been deprived. Therefore, he sought to allow the writ petitions as prayed for.

7. Per contra, Shri Anand Kumar, learned counsel for the respondent Nos. 1 and 2 sought to justify the impugned order.

8. Shri Anand Kumar, learned counsel for the contesting respondent Nos. 1 and 2 contended that as per the regulations OB 6.2, the candidate shall complete the course within a period of eight academic years from the date of first admission, failing which he/she has to discontinue the course. Therefore, learned counsel sought to dismiss the writ petitions.

9. I have given my anxious consideration to the arguments advanced by the learned counsel for the parties to the lis.

10. It is not in dispute that all the petitioners who have joined respondent Nos. 3 and 4 to prosecute their education in Bachelors of Engineering (B.E.) for the academic year 2006-07 onwards and the regulations stated above clearly depicts that the students shall complete the course within a period of eight academic years from the date of first admission. It is also not in dispute that students who have been admitted prior to academic year 2006-07 for prosecuting B.E. course were allowed to complete their course within a period of 10 years and in an identical circumstances, this Court while considering the similar issue in the case of Ramesh Kavadi R.K. v. Registrar, Visvesvaraya Technological University and others made in W.P. No. 45095/2015 and connected matters dated 17.11.2015, while accepting the submission made on behalf of Registrar, Visvesvaraya Technological University held that which course has to be completed in how many years is to be decided by the academicians, educationalists and experts in the field. But what cannot be overlooked or ignored in these cases is that the respondent/University has been consistently relaxing the maximum duration condition. The respondent/University appears to have put regulation OB 6.2 into a state of disuse; there is abrogation of law by long non-user. Disusing and disregarding the said regulation for years attracts the doctrine of desuetude. It is also held that it is not in dispute that many similarly placed students in the past have been given relaxation in the matter of maximum duration by virtue of 8 circulars relied upon by the petitioners. If the said benefit is denied to the similarly placed students, it would be violative of the right to equality guaranteed by Article 14 of the Constitution of India. No convincing explanation is forthcoming from the respondent/University as to how and why the departure was made from the regulation OB 6.2. In view of the large number of precedents, it is high time the respondent/University takes a call on the subject of maximum duration for the completion of B.E. course.

11. Considering the rival contentions urged in the present writ petitions and the dictum of this Court in an identical circumstances stated supra, the ends of justice would be met by allowing these writ petitions in part by directing the petitioners/students to submit their individual representations through the respective College to the respondent/University within ten days from the date of issuance of the certified copy of the order.

12. The respondent/University shall consider the anticipated representation as expeditiously as possible in any case within outer limit of 15 days from the date of representation of the students. The consideration of the petitioners' anticipated representations should not be cursory by the University and it is always expected University to pass detailed order in accordance with law.

13. In the meanwhile, petitioners/students are permitted to prosecute their studies and appear for forthcoming semester examination, subject to the outcome of the consideration of their representations. If the respondent/University resolves to relax the maximum duration condition, the same has to be on an uniform basis.

The regulations and relaxations therefrom have to be the same for all the similarly placed students. The question of announcing the results of the examinations for which some of the petitioners have already appeared depends on the outcome of the consideration of the petitioners' anticipated representations by the respondent/University in accordance with law.