

(2016) 03 KAR CK 0343

In the Karnataka High Court

Case No : Writ Petition No. 2252 of 2016 and W.P. Nos. 1822-1828/2016, 4072-4075/2016, 2706/2016, 3305-3314/2016, 51042-51043/2015, 8392-8396/2016, 3315-3335/2016, 3028/2016 (EDN-RES)

Amrith Raj V. and Others

APPELLANT

Vs

Registrar, Visvesvaraya Technological University and Others

RESPONDENT

Date of Decision : 24-03-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 226, Article 227

Citation : (2016) 03 KAR CK 0343

Hon'ble Judges : S. Abdul Nazeer, J.

Bench : Single Bench

Advocate : S.R. Hegde Hudlamane, Advocate, for the Appellant; D.N. Nanjunda Reddy, Sr. Adv. for T.S. Venkatesh, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

S. Abdul Nazeer, J.—1. Since common question of fact and law are involved in all these cases, they are clubbed together, heard and disposed of by this common order.

2. All the petitioners were admitted for the study of Bachelor of Engineering Course for the academic session 2006-2007 or thereafter to different colleges affiliated to respondent-University. The grievance of the petitioners is that the University is not permitting them to appear for the examinations on the ground that they have not completed the BE course within a period of eight academic years from the date of their first admission.

3. Some of the petitioners had filed representations before the University to extend the period to complete the course beyond eight years. Since the University did not extend the period for completion of the course, they filed W.P. No.45095/2015 and other connected matters seeking direction to the University to extend the time. This Court by order dated 17.11.2015 directed the University to consider the said representations within ten days from the date of receipt of

copy the said order with certain observations. The University has passed an order dated 5.1.2016 (Annexure-F in W.P. No.2252/2016) rejecting the said representations. The petitioners have called in question the legality and correctness of the said order in these writ petitions.

4. The contention of the learned counsel for the petitioners is that the University has extended the period for completion of the BE course beyond eight years to some of the students. They have pointed out various directions issued by the University in this regard. Learned Counsel for the petitioners have produced the said circulars along with a memo in W.P. No.2252/2016 and in W.P. Nos.3315-3335/2016. It is argued that similar benefit should be granted to the petitioners and the period for completion of the course should be extended. It is further argued that the order passed by the University in pursuance of the direction of this Court in W.P. No.45095/2015 and connected matters, has not taken note of these aspects and a non-speaking order has been passed without taking into consideration the relevant materials. The order of the Executive Council referred to in the order dated 29.9.2015 has not been brought to the notice of the Court in the previous writ petition in W.P. No.45095/2015 and connected matters.

5. On the other hand, Sri. D.N. Nanjunda Reddy, learned Senior Counsel appearing for the respondent/University submits that the Executive Council of the University by resolution dated 29.9.2015 has considered the representations of the petitioners and has resolved not to extend the period for completion of the course as it is contrary to the Regulations of the University. Hence, he prays for dismissal of the writ petitions.

6. The material facts are not in dispute. All the petitioners have joined different colleges affiliated to the respondent-University for the study of BE course for the academic year 2006-2007 or for the subsequent years. They have not completed the course within a period of eight academic years from the date of their first admission. Therefore, question for consideration is whether it is permissible for this Court to direct the University to extend the period for completion of the course beyond eight academic years?

7. The respondent-University has been established under Section 3 of the Visvesvaraya Technological University Act, 1994 (for short "the Act"). The Powers and duties of the Vice-Chancellor are enumerated in Section 14. One of the authorities of the University is the Executive Council. The Executive Council is constituted under subsection (3) of Section 19. The powers and functions of the Executive Council are enumerated in Section 20. Section 32 provides for making the Regulations consistent with the provisions of the Act, the Statutes and Ordinances. Section 20(I) provides for making Regulations regarding the admission of students to the University, constituent colleges and conduct of the examinations by the University and by the constituent colleges.

8. In exercise of the power vested in Section 20(I) read with Section 32 of the

Act, Regulations have been made by the Executive Council governing the degree of Bachelor of Engineering/Technology w.e.f. 2006-2007. These Regulations provide for eligibility for admission, attendance requirement, internal assessment marks, eligibility for passing, maximum duration for course completion, promotion and eligibility for the examinations, electives, seminar and project, award of class at semester level, award of class at degree level, award of prizes, medals and ranks and transfer of students. Regulation OB-6.2 provides for maximum duration for course completion, which is as under:

"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.

Provided that the candidates admitted under lateral entry scheme shall complete the course within a period of six academic years from the date of first admission, failing which he/she has to discontinue the course."

9. The expression "complete the course" contained in this Regulation means attending all the eight semesters of the course and passing in all the subjects of all the semesters.

10. The validity of this Regulation was challenged by some of the students in W.P. Nos. 15442-15444/2014 (between Narasimha Bhat S. and Others v. Registrar (Academic), Visvesvaraya Technological University and Others). The writ petitions were dismissed on 15.6.2015 upholding the validity of the said Regulation. It has been held as under:

"3. In my opinion, Regulation OB 6.2 of the Visvesvaraya Technological University quoted above is intra vires the Visvesvaraya Technological University Act, 1994 and does not offend any of the provisions of the AICTE Act or the constitution. The AICTE Act has not stipulated the maximum duration for completion of the Engineering Course of study. Accordingly, the contention of the learned Senior Counsel that the Regulation is invalid in law is devoid of merit. No other contention was urged. The writ petitions are accordingly dismissed. In view of dismissal of the writ petitions, no order is necessary on the pending IAs; they stand disposed of accordingly."

11. The Executive Council of the University consisting of academicians and experts in the field of technical education, has framed the Regulations prescribing outer limit of eight years for the completion of the BE course. It is impermissible for the Court to interfere with such policy in the absence of arbitrariness. It is well established that the Court cannot device its own criteria for completion of the course contrary to the Regulations made by the University. The power conferred by Articles 226 & 227 of the Constitution being designated to effectuate the law, to enforce the rule of law and to ensure that the authorities and organs of the State act in accordance with law, cannot be invoked for directing the authorities to act contrary to law. This Court cannot direct the University to disobey its own Regulations and permit the petitioners to complete

the course beyond eight years as contemplated in the Regulations.

12. In pursuance of the order of this Court in W.P. No.45095/2015 and connected matters disposed of on 17.11.2015, the matter was placed before the Executive Council and the Executive Council has passed a resolution on 5.1.2016 asunder:

"In light of many students approaching Court of Law for relief, the matter of considering the relaxation in maximum duration of B.E. course for 2006 batch students was placed before the Executive Council of the University on 29.09.2015.

The Executive Council of VTU vide its resolution No. 8.2 dated 29.09.2015 resolved to adhere to the existing Rules and Regulations of the University pertaining to maximum duration of UG and PG courses and not to grant further extension to complete the course. Further, the Executive Council resolved to honour the order of Hon''ble High Court of Karnataka pertaining to granting extension of maximum duration to the students of 2006 batch, on individual basis.

VTU has not relaxed the maximum duration to any student admitted during and after the academic year 2006-2007.

After careful consideration of the representations in light of the above stated facts and status submitted by the college, the following order is made.

ORDER

With the above preamble and by the direction of the Executive Council vide its resolution No. 8.2 in its meeting dated 29th September 2015 orders to disallow the granting of extension of maximum duration to the following students along with justification as under:

As per the Regulations of the University and pursuant to the decision of the Executive Council, the matter of relaxing maximum duration w.r.t. Amrit Raj V is not considered. Hence, the result of examination attended by petitioner student will not be announced and also the student is not permitted to continue the course"

Sd/-

(Registrar)"

13. The sum and substance of this resolution is that duration for completion of the course cannot be extended beyond the period of eight years. This resolution is in conformity with Regulation O.B.6.2 and I do not find any error in the said resolution.

14. It is no doubt true that there are certain instances, where the University has extended time for completion of the course beyond eight years. Most of these instances are in relation to the Regulations, which were in force before the academic year 2006-2007. In one or two cases, time has been extended for

completion of the course even after 2006-2007. It appears that the Vice-Chancellor of the University has passed an order extending the period for completion of the course. Learned counsel appearing for the parties are not able to show any statutory provision authorizing the Vice-Chancellor to extend the period for completion of the course.

15. It is settled that this Court cannot direct the University to extend the period for completion of the course contrary to the Regulations, even if the University had extended the period for completion of the course to some of the students on the ground of discrimination. Two wrongs do not make a right. A party cannot claim that since something wrong has been done in another case, direction should be given for doing another wrong. The concept of equal treatment on the logic of Article 14 of the Constitution cannot be pressed into service in such cases. What the concept of equal treatment presupposes is the existence of similar legal foothold. The jurisdiction under Article 226 is not intended to perpetuate illegalities, but to strike at them. If a person who has a legal right is denied the benefit of it, while others having a similar right are given the benefit of such right, then there is discrimination, and a mandamus may be issued to ensure that he also gets a similar benefit. But, if a person who does not have a right is given a benefit contrary to law, then the illegal act itself will be struck down and there can never be a mandamus to repeat the illegal act to favour others.

16. I do not find any merit in these writ petitions. They are accordingly dismissed. No costs.