

(2001) 12 KAR CK 0021

In the Karnataka High Court

Case No : Writ Petition No's. 18995 to 19006, 21382 to 21403, 34249, 34635 to 34648, 37351 to 37353, 44830 to 44844, 44871 to 44888, 44890 to 44895 and 45048 to 45050 of 2001

Anand and Others

APPELLANT

Vs

The Visweshwaraya Technological University, Belgaum and Others

RESPONDENT

Date of Decision : 10-12-2001

Acts Referred:

Citation : (2002) 3 KarLJ 186 : (2002) 1 KCCR 552

Hon'ble Judges : K. Sreedhar Rao, J;G.C. Bharuka, J

Bench : Division Bench

Advocate : Lalitha Koushik, Mahesh R. Uppin, K.N. Subba Raddy and Vivek Reddy, P.B. Raju and Associates, R. Gopalakrishna and P.Nataraju, Associates, for the Appellant; N.K. Ramesh, Additional Govt. Advocate, Basavaprabhu S.Patil, C. Shivakumar, A.N. Venugopala Gowda and N.B. Bhat, for the Respondent

Final Decision : Partly Allowed

Judgement

1. The petitioners are the students of Bangalore College of Engineering and Technology (in short "B.E.T.") have filed these writ petitions seeking relief of writ of mandamus and other directions in various other forms. The pith and substance of the reliefs sought by each of the petitioners is for a mandamus and a similar direction against the Registrar, Visweshwaraya Technological University, Special Officer, C.E.T. and the State Government for providing them a seat in any of the approved colleges and in some of the petitions, the petitioners alternatively claim that the rejection of approval by the A.I.C.T.E. for the Engineering Degree Course in Telecommunication and Instrumentation Technology as illegal and sought for a direction that the two courses have to be approved and some of the writ petitioners have sought for damages for the mental agony and the inconvenience caused to them by the action of the respondents and some of them have sought for the general reliefs apart from the specific relief of mandamus and a similar direction against the respondents.

Insofar as the petitioners who are eligible to take immediate admission to the third semester, it is submitted that admissions be given to them immediately and others who are immediately ineligible, available admission seats be reserved for their admission to third semester after they become eligible by passing the required number of subjects.

2. The petitioners have undergone the academic training in two semesters. Some of them are qualified to go to third semester and some of them are yet to be qualified to go to third semester as they have not passed the required number of subjects in the first and second semesters. At the time when the petitioners were given admission to B.E.T. there was a litigation pending in W.P. No. 27425 of 1999. The B.E.T. was earlier started at Malur in Kolar District and had to be closed on account of legal snags and was re-established at Chandapur in Bangalore Rural District. The A.I.C.T.E. had recognised only four courses in the college at Chandapur with permissible intake of 180 students. The college was demanding an approval of six courses with an intake of 45 students per course.

3. In Writ Petition No. 27425 of 1999 this Court by order dated 24-2-2001 allowed the writ petition filed by the B.E.T., directed the University and the A.I.C.T.E. to consider the affiliation and approval of new college established at Chandapur. A.I.C.T.E. rejected the affiliation in the year 2000-01 by its order dated 17th May, 2000. The B.E.T. challenged the order of rejection in W.P. No. 23080 of 2001 and obtained interim order against the C.E.T. and other respondents including the Government for inclusion of the college in the seat matrix for the year 2000-01 based on the intake fixed for the previous year 1998-99 which pertains to the college that was functioning at Malur. This Court by order dated 4-7-2000 also further directed the A.I.C.T.E. to consider the viability of approval of the request for affiliation to start the courses in Engineering as requested.

4. In view of the interim order for the year 2000-01, the petitioners were given admissions. The A.I.C.T.E. after considering the request approved only four courses with an intake of 180 students. The B.E.T. filed W.P. No. 35399 of 2000 for approval of six courses with an intake of 340 students. The students so admitted by interim order were permitted to sit for the first and second semester examinations. By order dated 8-5-2001, A.I.C.T.E. granted approval for four courses with an intake of 45 students for each course and rejected the approval of two additional courses in Telecommunication Engineering and Instrumentation Engineering. The petitioners are admitted to these two rejected courses by virtue of C.E.T. allotment.

5. As the A.I.C.T.E. has finally rejected the approval of Engineering Courses in Telecommunication Engineering and Instrumentation Engineering, the petitioners have now come up with a request for allotment of seat in any other approved Engineering Colleges where there are vacancies available and also seek damages. The matters listed before the Single Judge came to be referred to the Division Bench.

6. During the pendency of these writ petitions, the students by interim order were permitted to appear for second semester examination and have become eligible for the third semester and some of them are failed and are immediately ineligible to seek admission for third semester for current year. In view of the rejection of the request by the A.I.C.T.E. by order dated 8-5-2001 the College Management withdrew the writ petition with a liberty to challenge the order of A.I.C.T.E. by a separate petition. Accordingly, W.P. No. 31680 of 2001 is filed. However those proceedings are not germane for the present purpose.

7. It is the grievance of the petitioners that the courses to which they are admitted by the order of C.E.T. now having been disapproved by A.I.C.T.E. are left in lurch and they cannot further prosecute their education in the said courses in the college in question. Therefore, they seek a direction to the C.E.T. and other respondents for allotment of admissions in any other approved colleges in the State for the aforesaid courses in the third semester.

8. The Visweshwaraya Technological University has filed a memo along with tabulated vacancy position in the various colleges in the State where the petitioners could be accommodated. The Government and C.E.T. have also filed a memo that the University is prepared to allot admission to all the petitioners in the colleges for wherever there are vacancies in respect of the unapproved courses to which the petitioners belong. There are totally 80 seats vacant. In view of the stand taken by the University Authorities there does not appear to be any difficulty or complication in granting the request of the petitioners for allotment of the seats in any of the approved colleges. However, the allotments have to be made on the basis of the C.E.T. ranking of each of the petitioners.

9. Smt. Lalitha Kaushik appearing for some of the petitioners places reliance on the decision of the Supreme Court in *Maharishi Dayanand University v. M.L.R. Saraswati College of Education*, (2000) 7 SCC 746 and contended that on account of illegal actions of the College Management, the petitioners are put to untold misery and tension exposing their career to unpredictable uncertainties. Therefore, it is just and necessary that the petitioners have to be compensated. In para 39 of the judgment, the following observations are made by the Supreme Court:

"39. It is time that the Courts evolve a mechanism for awarding damages to the students whose careers are seriously jeopardized by unscrupulous management of the colleges/schools which indulge in violation of all rules. This is not the occasion to go deep into that aspect but one day it has to be done".

10. The Counsels appearing for the B.E.T. strenuously opposed the grant of the relief of damages contending that it is only by virtue of the interim order of the Court, the admissions have been given to the petitioners and for no fault the College Management should not be penalised.

11. The pretext of interim order of this Court taken as a refuge by the College Management although appears to be apparently attractive argument but on deep

analysis and scrutiny of the development of facts, we do not find that the College Management can exonerate itself from the harmful consequences suffered by the petitioners. The college situated at Malur had to be closed down on account of legal snags and was re-established at Bangalore. The College Management pursued doubtful and debatable legal proposition in the writ petition contending that establishment of college at Bangalore is a continuation of the college earlier functioning at Malur. Based on the said assertions, the College Management vigorously and actively pursued legal proceedings to obtain the interim order for including the college for the purpose of seat matrix for the year 2000-01. No doubt it was only a calculated risk the College Management has taken while obtaining the interim order. Merely because the Court passed the interim order the illegal actions if any committed cannot have the seal of judicial approval in the event of main petition going adversely against the College Management and it cannot be a valid contention on the part of the Management to exculpate itself from legal accountability to the students who are harmed by its actions. This Court, while passing the interim order was only guided by the prima facie facts and material available at that point of time. The legal effect of interim order cannot be construed or argued as a cover of protection to justify the illegal and unauthorised actions committed by the College Management. More so, the College Management had failed to establish that the impugned action of the A.I.C.T.E. in rejecting the approval for the disputed courses is illegal. On the other hand, the College Management had withdrew the writ petition. In that view of the matter, we find that the excuse placed by the Management that it admitted the students on account of the interim order is wholly untenable and cannot be a valid excuse to escape the legal accountability for damages.

12. In view of the interim directions given from time to time in the writ petitions, the petitioners have completed the first year and now by the reliefs given to them in the present petitions, they would get admissions in the approved colleges. Despite the said relief, it is evident that the petitioners had to undergo lot of mental turmoil and to indulge in legal litigation to set right their upset careers. Therefore, to the extent of compensating the petitioners of the legal expenses whatever they have incurred in prosecuting the litigation before the Court requires to be reimbursed and we feel granting a sum of Rs. 10,000/- to each of the petitioners as compensation is just and proper.

13. Accordingly, we direct the College Management to pay each of the petitioners a sum of Rs. 10,000/- and the same to be payable by way of Demand Draft drawn in favour of each of the petitioners to be deposited before the Registrar (Judicial), High Court of Karnataka and the amount should be deposited within two weeks and the amount so deposited should be payable to each of the petitioners by account payee cheque on proper identification by the respective Counsels.

14. Accordingly, the writ petitions are partly allowed in the terms of the directions as indicated above and rest of the reliefs sought for in the writ

petitions are rejected.