

**(2001) 08 KAR CK 0002**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 9556 of 2001**

Anand C.

APPELLANT

Vs

The Karnatak University, Dharwad and another

RESPONDENT

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**Date of Decision :** 21-08-2001

**Acts Referred:**

**Citation :** (2001) ILR (Kar) 4815 : (2001) 5 KarLJ 597 : (2002) 1 KCCR 4 SN

**Hon'ble Judges :** N.K. Patil, J

**Bench :** Single Bench

**Advocate :** Sri G. Gangi Reddy, for the Appellant; Sri R.H. Chandangoudar, for the Respondent

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## Judgement

The Court

1. This petition has come up for orders and by consent of the learned Counsel appearing for both the parties, the matter is taken up for hearing.
2. The petitioner who is a student in Computer Science Course studying in the 2nd respondent-college is assailing the order passed by the 1st respondent dated 27-2-2001, bearing No. KU/EXAM/ENGG/MPCC/631. Further, he sought for a direction directing the respondents to allow him to appear for the final semester B.E. Exams to be held on 26th March, 2001.
3. The learned Counsel for the petitioner submits that the petitioner has completed the 1st semester in second class in April 1997, 2nd semester in August 1997, 3rd semester in July 1999, 4th semester in January/February 1999, 5th semester in second class during January/February 1999, 6th semester in July 1999 and passed the same in 2nd class. Further, he appeared for the 7th semester and passed in second class. The petitioner continued to pass B.E. in Computer Science Examination from April 1997 to March 2000 from 1st to 7th semester. The learned Counsel further submits that, the petitioner attended the exam for the final 8th Semester in the month of September 2000. After the completion of the Papers I and II when the petitioner was writing the III paper

the examinations squad who came to inspect the examination hall found one word written on the left-hand of the petitioner and the squad has taken photocopy of the word which was not clear and which was on the left-hand palm. Except that one word they did not find anything with him.

4. It is further submitted that, thereafter, on 22-9-2000 the examination squad and the Supervisor for the examination in the 2nd respondent-College did not allow the petitioner to write the remaining examination papers. The matter has been referred to the Malpractice Committee on the basis of the report submitted by the squad to the University. In pursuance of the reference to the Malpractice Committee the petitioner received notice dated 1-2-2001, bearing No. 569 from the Registrar of Evaluation of the 1st respondent-University calling upon the petitioner to appear on 7-2-2001 and to give explanation before the Disciplinary Committee constituted by the University. The learned Counsel for the petitioner submits that the notice did not point out or frame any charges against the petitioner and was not in a position to know what is the real charge made against him and it is a proforma notice. However, the petitioner had appeared before the Committee on 7-2-2001 and the Committee instructed him to write down a statement by stating that they will not take any serious action if he has given the following statement which reads as under:

"I was written something on my hand in Library for my reference before going to Exam, I washed my hand and that was not visible and that was not at all related to the subject, I don't do this kind of things in the future, please pardon me".

Further, the learned Counsel submits that after taking the above statement, they have not conducted any enquiry as contemplated under the statute or under any regulations and law. To his shock and surprise, the petitioner has received a letter dated 27-2-2001 on 2nd March, 2001 stating that the Malpractice Committee has taken a final decision as per Annexure-J, bearing No. KU/EXAM/ENGG/MPCC/631, dated 27-2-2001, which reads as follows:

The performance of the present examination is cancelled and also you are debarred from appearing for the examination to be held in March/April 2001. You are permitted to appear for the examination to be held in September/October 2001".

Feeling aggrieved by the order passed by the Malpractice Enquiry Committee the petitioner has approached this Court by way of this writ petition. Further, the learned Counsel appearing for the petitioner submitted that since the respondents have not permitted the petitioner to appear for the examination to be held in the month of March/April 2001, he has approached this Court and obtained the interim order on 14-3-2001 wherein, this Court has permitted the petitioner to appear for the ensuing examination to be held in the month of March 2001. In pursuance of the interim order granted by this Court, the petitioner has appeared for the examination and his results have been declared in the internet declaring him as passed securing 66%. In view of the above facts

and circumstances, the learned Counsel appealing for the petitioner submitted that the performance of the exam appeared by the petitioner held in September/October 2000 may be held sufficient on the ground that even MS per the stand taken by the respondents-University, the matter has been referred to the experts and the experts state that the matter is not clear since the xerox print of palm is not clearly visible. For this, the respondent-University ought not to have imposed the punishment of debar of two examinations. Therefore, he prayed that forfeiture of the performance of the petitioner in the exams appeared by him in the month of September/October 2000 may be held sufficient by allowing the writ petition.

5. Per contra, the learned Counsel appearing for the respondent-University has filed the statement of objections justifying the decision taken by the University on the ground that the petitioner himself had appeared before the squad and the Superintendent of Examinations had given the statement as per Annexure-R1. The petitioner himself had admitted that "I have written some related matter of the subject on my left-hand palm". Therefore, the respondent-University is justified in imposing the punishment taking into consideration of the existing regulations and therefore, the petitioner is not entitled to seek any relief at the hands of this Court. Hence, the writ petition is liable to be rejected and prayed to reject the writ petition.

6. The short question arises for consideration before this Court in the present petition is:

"Whether the performance in the examination of the petitioner appeared in the month of September/October 2000 and the performance of that examination may be forfeited and he may be permitted to appear for the ensuing examinations to be held in the month of March 2001?"

In my considered opinion, it is evident from the facts of the case that, in pursuance of the interim order granted by this Court, the petitioner appeared for the examination and the result has been declared showing that the petitioner has passed in first class securing 66% and the same is just and proper taking into account of the facts and circumstances of the case and the career of the student. The performance of the examination held in September/October 2000 is forfeited and the said forfeiture is sufficient punishment for petitioner who committed the mistake while writing the exam.

7. Hence, the writ petition filed by the petitioner succeeds. The impugned order passed by the respondent is modified to the effect that the performance of the petitioner should be confined to forfeit the performance of the petitioner in the month of September/October 2000. Further, the respondent is directed to declare the results of the exams taken by petitioner held in the month of March/April 2001 pursuant to the interim order granted by this Court.

8. With these observations, the writ petition stands disposed of.