

(1996) 01 KAR CK 0003

In the Karnataka High Court

Case No : WPs. 3802,4386, 4513 to 1515, 4855, 7414 and 16855/94

Anil kumar and Others

APPELLANT

Vs

The Director of Technical Education in Karnataka and Others

RESPONDENT

Date of Decision : 24-01-1996

Acts Referred:

Citation : (1996) ILR (Kar) 2766 : (1996) 6 KarLJ 575

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Advocate : S.M. Patil, Subhash B. Adi, Ashok R. Kalyanashetty, S.Z.A. Khureshi and T.V. Vijayaraghavan, for the Appellant; N.B. Vishwanath, HCGP for R-1, T.N. Raghupathi and M.N. Seshadri for R-2, for the Respondent

Judgement

M.F. Saldanha, J.—All these Writ Petitions are being disposed of through a common order because the point involved in all these cases is identical. The petitioners are students and they had joined the various professional courses, after passing the Pre-University Examination in the year 1993. It is common ground that these students had been declared eligible on the basis of their" having passed in the supplementary examination held in September 1993. In that particular year, due to certain reasons the admissions had not been completed within the prescribed time and the last date was extended twice and ultimately, it went right upto 10th January 1994. Normally, in respect of the academic year 1993-94 only those students who had passed in the examinations held prior to the commencement of that academic year would have been eligible, but in view of the delay, these petitioners having passed their examination securing the eligibility certificate were admitted to the courses in question on merit. Some time after their admission, it came to the notice of the university authorities that only because of the time factor having gone wrong, that some students who had passed the qualifying examination in that very academic year had joined the courses and the university therefore issued instructions to the effect that these admissions should be revoked in so far as these students could only be considered in the following academic year. It is against these directions

that the present petitions have been directed.

2. Petitioners' learned advocate submitted that this is not a case where the admission is vitiated either by fraud, malpractice or by virtue of the fact that the petitioners are not eligible in so far as they do not possess the requisite qualifications. They submit that all these factors are in favour of the petitioners and that the only ground on which their admissions are sought to be revoked after they have paid the fees, joined the course and carried on for some time is that they were not eligible in that particular year. They submit that this is a technicality and that in the facts and circumstances of the present case, this Court should condone the technical irregularity and direct the university to recognise the admission.

3. The University authorities have resisted the petitions. They contend that as a result of what has happened, that the petitioners are virtually skipping one academic year and that they had competed for admissions with a batch of students one year ahead of what they were entitled and in the result they have obviously prevented an equivalent number of students from that batch from getting admitted. As far as this last aspect of the matter is concerned, it is necessary to point out that none of the so called aggrieved students have made a grievance and therefore, the question of dislodging other students is purely an academic matter. The learned advocates who represent the universities have submitted that in sum and substance these petitioners have bypassed the university regulations and to that extent their admissions are bad and should be set aside.

4. It is necessary for this Court to draw a broad distinction between ineligibility on the ground of lack of qualification or ineligibility on the ground of disqualification because of fraud malpractice etc. and a situation whereby, it is alleged that the student has virtually jumped the gun. Even as far as the latter is concerned, this Court would have taken a serious view if it was demonstrated that the students have used any unfair practice or have virtually entered the course through the back door but that is not the case. The normal admission process was carried on for a period of time much longer than it should have been in that particular year and I need to take cognizance of the fact that in such a situation what normally happens is that the various aspirants for the courses decide the commence their courses of education in various alternative areas and therefore when the admissions are abnormally delayed, there is every possibility that several of the seats go a begging. If in these circumstances the petitioners had applied and they were selected on merits, I do not see any justification in revoking the admission after the same have been granted. Had this been done prior to the admission, the position would have been different but this Court as of necessity must balance the equities while passing orders in cases of the present type. However since the petitioners, if allowed to continue would be virtually gaining one year, I do consider it to be equally reasonable that they be directed to make amends which to my mind would be sufficient if they pay the equivalent

of one year's tuition fees as and by way of costs.

5. In the circumstances of the case's the Respondents Universities are directed, since the objection canvassed as far as petitioners are concerned are highly technical and are not due to any fault on their part to regularise their admissions in respect of the academic year 1993-94 if otherwise eligible. As a necessary consequence, they shall be allowed to prosecute and complete their courses and if the results of any of the intervening examinations have been withheld, the same shall also be declared, within 4 weeks. As far as costs are concerned, each of the petitioners shall within a period of eight weeks from today deposit with the Advocates Association Welfare Fund an equivalent of one year's tuition fees in respect of the course in question. It is made clear however that they shall forward a xerox copy of the receipt in question to the University and if they default in complying with this direction, that they shall not be eligible for regularisation.

6. The petitions accordingly succeed and stand disposed of. The learned Government Advocate is permitted to file his memo of appearance within a period of three weeks.

7. In view of the fact that certain time bound directions have been given, if the petitioners' learned advocates apply for the certified copies of the judgment, the same shall be furnished to them by the office on a priority basis.