

(2003) 10 KAR CK 0008
In the Karnataka High Court
Case No : Writ Petition No. 44378 of 2003

Annapurna

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 13-10-2003

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 2004 Kar 169 : (2004) 1 KarLJ 302 : (2003) 4 KCCR 357 SN

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

Bench : Single Bench

Advocate : S.R. Shinde, for the Appellant; B. Manohar, A.G.A. for Respondents 1 and 3 and A.N. Venugopala Gowda, for Respondent 2, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—The learned Additional Government Advocate accepts notice for respondents 1 and 3. Sri A.N. Venugopala Gowda accepts notice for the 2nd respondent. Notice to the 4th respondent is dispensed with.

2. Though this matter is listed for preliminary hearing, with the consent of the learned Counsel for the petitioner and the learned Additional Government Advocate for respondents 1 and 3, it is taken up for hearing.

3. In this writ petition, the petitioner has sought a declaration declaring Rule 3 of the admission to the II year/III semester of full time B.E./B. Tech. Degree courses in Karnataka for diploma holders for the year 2003-04 issued by the 2nd respondent, the CET to the first year for diploma holder to Architecture course as per Annexure-G being unconstitutional, void, illegal and against law insofar as it relates to the petitioner. Further, she sought a direction to respondents 2 and 3 to admit her to II year/III semester.

4. The case of the petitioner as made out by the learned Counsel for the petitioner is that, she has passed the 3 years" diploma course in Architecture in the year 2002. She has applied for admission to the II year/III semester of full

time Engineering course (Architecture) in Karnataka for diploma holders for the year 2003-04. Pursuant to that, she has received the admission ticket from the 2nd respondent and has appeared for the entrance test and secured General Rank 1124 having category GM. She has also passed the aptitude test. Accordingly, she has appeared for counseling conducted by the 2nd respondent and she has been selected for admission to the I year/I semester B.E. course in the 4th respondent-college. The further case of the petitioner is that she being a diploma holder ought to have been admitted to II year/III semester as the students of the other branches have been admitted to the II year Engineering and therefore, Rule 3 is unconstitutional, void, illegal and against law. The learned Counsel for the petitioner submitted that though this fact has been brought to the notice of the concerned authorities, the request of the petitioner has not been considered and therefore, she was constrained to approach this Court by way of filing this writ petition.

5. Per contra, the learned Additional Government Advocate appearing for respondents 1 and 3, inter alia, contended and justified the rules of admission to the B.E. course. To substantiate his submission, he placed reliance on the relevant rules for admission to Second year/Third semester of full time B.E./B. Tech. Degree courses in Karnataka for diploma holders for the year 2003-04. He pointed out that as per Rule 3 for admission to Architecture course, the candidates are eligible for admission only to First year B. Architecture course as per the regulations of Architecture Council of India. He further submitted that when once the petitioner has accepted the terms and conditions of the rules and taken admission, now, at this stage, it is not open for her to come up before this Court seeking a declaration to struck down Rule 3 and therefore, the respondents have not committed any error of illegality and the writ petition is liable to be dismissed.

6. After hearing the learned Counsels for the parties and after considering the contentions urged by them, the only question that arises for consideration is whether the petitioner is entitled to seek a relief to struck down Rule 3 in this writ petition?

7. It is not in dispute that the petitioner has passed the three years' Diploma course in Architecture in the year 2002 and in pursuance of the notification issued by the 2nd respondent, she has appeared for the entrance test and the aptitude test and she has been selected for the 5 years B.E. in Architecture course for the academic year 2003-04 and she has taken admission and attending the classes in the 4th respondent-college. When once the petitioner has accepted the terms and conditions of the rules and appeared for the entrance test and aptitude test and taken admission in the 4th respondent-college, now it is not open for her to come up before this Court challenging the relevant Rule as arbitrary and hits Article 14 of the Constitution of India. It is worthwhile to extract Rule 3 of admission to Second year/Third semester of full time B.E./B. Tech. degree courses in Karnataka for Diploma Holders for the year

2003-04. It reads as follows.--

"3. Admission to Architecture Course.--The candidates opting for Architecture courses should pass in Aptitude Test conducted by CET Cell on 20-9-2003 between 2.30 p.m. to 4.00 p.m. at the CET Cell office, 18th Cross, Sampige Road, Malleshwaram, Bangalore-03. They are eligible for admission only to First year B.Arch. course as per the regulations of Architecture Council of India".

Further, Schedule I regarding equivalence of diploma for admission to Second year/Third semester Bachelor of Engineering/Bachelor of Technology has clarified that the diploma holders in Architecture are to be admitted to Architecture (for First year only) and the Group Code is mentioned as "C". These two elementary eligibilities have been notified well in time and the petitioner knowing fully well about the same, has appeared for the test and taken admission to the First year Engineering of Architecture which is a five years course in the 4th respondent-college. Therefore, it is not open for her to approach this Court at this distance of time seeking to declare the relevant Rule as unconstitutional, illegal and hits Article 14 of the Constitution of India. Having regard to the facts and circumstances of the case as stated above and in view of the well-settled law laid down by the Apex Court and this Court in similar matters, the writ petition is liable to be dismissed.

8. Having regard to the facts and circumstances of the case as stated above and having regard to the factual and legal aspect of the matter, the writ petition is dismissed.

9. The learned Additional Government Advocate is permitted to file his memo of appearance within two weeks from today.