

(1983) 10 KAR CK 0020
In the Karnataka High Court
Case No : W.P. Nos. 29245/82 etc

Asgar Hussain and Others

APPELLANT

Vs

University of Bangalore

RESPONDENT

Date of Decision : 05-10-1983

Acts Referred:

Constitution of India, 1950 — Article 15(4)

Citation : (1984) 1 KarLJ 579

Hon'ble Judges : M. Rama Jois, J

Judgement

1. The petitioners, who were admitted to the Engineering Degree Course by the private Engineering Colleges in the City of Bangalore have presented these petitions aggrieved by the action of the Bangalore University disapproving their admission on the ground that they were ineligible for admission to the course.

2. W.P. No. 29245 of 1982 came up for preliminary hearing after notice to the respondents and other petitions came up for preliminary hearing on 5th August 1983. Counsel for the University was directed to take notice for the University in these cases. Sri. N.P. Moganna, learned Counsel, took notice for Islamiah Institute of Technology, which is a respondent in some of the petitions. "Government Advocate was directed to take notice for the State. After imparing the learned Counsel for the parties orders were reserved after making an interim direction to the University to admit the petitioners to the examination as it was due to commence from 8th August 1983.

3. It is common ground that according to the rules in force, to candidate, who has secured less than 50% of marks in the Pre-University Examination is eligible for admission to the B.E. Degree Course, except in the case of candidaties belonging to Scheduled Caste, Scheduled Tribe and Backward Tribe. The candidates belonging to Backward Tribe are eligible to be admitted to the Course even If they had secured less than 50% marks in the Pre-University Examination having passed the said examination.

4. The facts of the case, in each of the petitions, may be summarised as follows:

(i) W.P. No 29245/1982 The petitioner in this petition passed the intermediate Examination of the A.P. Education Board, Hyderabad, in April 1981. He had secured 45% marks in the optional group consisting of Chemistry, Physics and Mathematics. He was admitted to the Islamiah Institute of Technology for the I year Engineering course during the academic year 1981-82. The basis on which the Petitioner was admitted, even though he had secured less than 50% of marks was a certificate issued by the Muslim backward Classes Federation A.P. It reads:

"Muslim Backward Classes

Federation. A.P.

Recognised by Govt. of Andhra Pradesh

G.O. No. 1793.

Head Office

Sanat Villa

Isbengr Market

Bi Ka Chashma,

Falaknems,

Hyderabad A.P.

256/8 Office:

Ansari Lodge,

Near Madina

Building,

High Court Road,

Hyderabad A.P.

Date: 17-8-1981

Certificate

This is to certify that after due verification that Education Shri, Asgar Hussain, S/o Manzoor Ahmed aged 19 (Nineteen years) Occupation: Student resident of of Banjara Hills Taluk, Hyderabad District, Hyderabad belongs to backward class Laddaf serial No. (4) as per the approved list Group-B. He/she possesses experience in Intern 2nd Year passed. Has marks of identification is Mole on Left Neck.

The association has verified the antecedents of the candidate and is fully responsible for a a certificate.

(Sd.) Andhra Pradesh Muslim Back ward Classes Federation"

According to the petitioner, he got himself admitted on the ground that he belonged to the Backward Tribe. The petitioner was informed that his admission was not approved by the University as per communication dated 13-8-1982 (Annexure-E).

It reads:

" * * *

To

Asgar Hussain,

Student of I.I.T

Bangalore-76.

Sub: Admission to 1st Year B.E., degree course in I.I.T. Bangalore for the year 81-82

Your admission for 1st B.E. Degree Course for the year 81-12 is not approved by the Bangalore University as communicated by the University to T.O. under No. ACA. 1/R3/Adm/Engg/198/81-82, dated 10-8-82, for the reasons noted below:

"He has secured 47% of marks in the P.C.M. group in his qualifying examination. Hence, he is not eligible for admission to First Year B.E. Degree."

Please acknowledge the receipt of this letter. Hence you are discharged from college forthwith.

(Sd.)-Principal."

At that stage, the petitioner presented this Writ Petition. An interim order was granted by this Court on 16-8-1982 directing the respondents to permit the petitioner to take the examination at his own risk and subject to the condition that the result need not be published. Pursuant to the interim order, he appeared for the examination. According to the University the petitioner was ineligible for admission as he does not belong to Backward Tribe. The petitioner has filed an affidavit today claiming that Laddaf community in Andhra Pradesh to which the petitioner belonged is equivalent to Backward Tribe. On this basis he claims that this admission was valid.

(ii) W.P. No. 14352/1983-According to the petitioner, he passed Intermediate Examination conducted by the Uttar Pradesh Board of Intermediate Education in April 1980. He applied for admission to the Islamiah Institute of Technology during the academic year 1981-82. He was given a seat by the Institute. Along with the application, he had produced a marks card issued by the Head of the Institution situate at Dhampur in U.P. in which he studied for the Course. No certificate issued by the Intermediate Examination Board of U.P. had been

produced. He appeared for the 1 year Examination in which he failed in four subjects and passed only in one paper. He is yet to pass four more papers of the 1 year. He was desirous of appearing at the examination which was scheduled to commence on 8-8-1983. On 3-8-1983 the Institute addressed the following communication to the petitioner a copy of which is produced as Annexure-E:

"* * *

To

Mr. Pankaj Gupta,
H. No. 70, 1st Floor,
13th Cross Road,
Laxmipuram, Ulsoor,
Bangalore-560 008.

Sub: Admissions to 1st Year B.E. of Islamiah Institute of Technology for the year 1981-82.

Dear Sir,

I wish to inform you that your admission has not been approved by the Bangalore University so far and the reason assigned for non approval reads as follows:

"Verification reports issued by the competent authority from the concerned University, indicating the marks secured in various subjects, Reg. No., Year & month of passing the examination etc., of the qualifying examination."

The Secretary Uttar Pradesh High School and intermediate education Board, Allahabad, U.P. has been addressed for verification and the verification report is not received.

As the examination for first year is scheduled to commence from 8-8-1983, you are requested to take suitable action to enable you to take the examination."

Annexure-F produced along with the petition indicates that though the petitioner had been admitted to the Course during the academic year 1981-82. the Principal of the institute addressed a letter to the U.P. Intermediate Education Board only on 20-6-1983 and again on 8-7-1983 seeking confirmation from the said Board as to whether the petitioner had passed the intermediate examination. As his admission has not been approved by the University the petitioner has presented this Writ Petition.

(iii) W.P. Nos. 14371 and 14372/ 1983: The two petitioners passed the Pre-University Examination held by the Pre-University Board, Bangalore during 1980. The first petitioner had secured 44.6% marks in the optional group and the 2nd petitioner had secured 39.6% marks in the optional group. But both of them

were admitted to the Islamiah Institute of Technology to the Engineering Course during the academic year 1980-81. On 22-6-1983, the following communication (Annexure-B) was given to the 1st petitioner:

Sri Asrhad bearing Reg. No. E 80 HA 001 was admitted to 1st year B.E. Civil in the year 1980-81 in Islamiah Institute of Technology Bangalore.

The Bangalore University has not conveyed the approval of the admission till now. The observation made against his name is noted. His caste certificate has not been accepted till now by the competent authority (extract of letter No. ACA. I/R3/Adm/Engg/ 111/16/80-81 dt. 27th August, 1981) of the Registrar, Bangalore University enclosed.

Meanwhile he had appeared for his annual examination. But his result is withheld. And also appeared for the Oct. 1981 supplementary examination with permission from the Vice-Chancellor.

The Student is requesting for the following:

- (1) Announcement of result of the June/July 1980-81 (which is with-held).
- (2) Permission to continue his studies."

The reason given by the University for not approving the admission of the first petitioner is furnished in the enclosure to Annexure-B. It reads:

The candidate was admitted to 1st year B.E., on 30-9-1980 in the college. He had secured 44.6% in P.C.M. Group in PUC. He had produced the B.T. certificate issued by the Tahsildar, Bangalore North Taluk. The certificate was dated 20-7-1981. But the certificate was changed from 20-7-81 to 20-7-80. Hence, this office was pointed out the Principal that it was amounted to tampering of the date and therefore his admission had not been approved vide this office letter. We had also stated that the said certificate was retained in the University. But by oversight it was sent to the principal along with other records. But, the Principal in his letter dated 16-9-1981 addressed to the Registrar, Bangalore University, Bangalore has stated that he has sent the certificate issued by the Tahsildar as it was. Further, he has requested the University to approve the admission of the candidate. But, he has not sent back the said certificate to the University for consideration. This requires an enquiry."

The reasons given for not approving the admission of the 2nd respondent at Annexure-D reads-"6. Sl. No. 180 (Electrical)

The candidate was admitted to I BE on 30-9-1980 has passed PUC securing 39.6 percent in PCM Group. It is mentioned in the admission that he belongs to B.T. the Principal has now sent the certificate issued by the Tahsildar, Bangalore North Taluk. It is stated in the application that the candidate belongs to the Muslim community which is enumerated as a backward community the students belongs to B.C. are not entitled to get relaxation of marks for admission to I Year BE Degree Course. Hence the admission cannot be approved."

The B.T. Certificate "Darvesu" is a B.T. and not B.C. I request that the admission may kindly be approved on the strength of the B.T. Certificate issued by the Tahsildar, Bangalore North and oblige.

Aggrieved by the disapproval, these petitioners have presented these two Writ Petitions.

(iv) W.P. No. 14377 and 14378/1983-The two petitioners sought admission for the I Year Engineering course at M.S. Ramaiah Institute of Technology, during the academic year 1982 though they had failed in the Pre-University Examination. The Institute informed the 1st petitioner by memo dated 2-8-1983 (Annexure-C) to the effect that the admission of petitioner-1 was not approved by the University. The communication reads:

" * * *

Sub: Admission of Sri Vimallesh Narain Mutha to I Year BE. (Civil) during 1982-83.

The Bangalore University in their letter No. ACA. I/R3/Engg/Adm/MSR/IT/535/82-83 dt. 2-8-1983 have informed that you are not eligible for admission for the academic year 1982-83.

An extract from the letter so far as it concerned your admission is herewith enclosed for your information. Hence your provisional admission is not approved by the Bangalore University and as a consequence you cannot take the ensuing I Year B.E., examination. Please Note."

The annexure to the said communication reads- "The candidate has passed the "Mathematics" in September 1982 examination. The candidates, who have passed the supplementary examination of the same academic year are not eligible for admission. Hence the admission of the candidate is not in order and he may be discharged from the college immediately."

The communication given to petitioner-2 vide Annexure-D dt. 2-8-1983 reads- "
* * *

Sub: Admission of Sri Vimal Mathur to I Year B.E. (Civil) during 1982-83

The Bangalore University in their letter No. CA I/R3/Engg.Adm. MSRIT/534/82-83 dated 2-8-83 have informed that you are not eligible for admission for the academic year 1982-83.

An extract from the letter so far as it concerns your admission is herewith enclosed for your information. Hence your provisional admission is not approved by the Bangalore University and as a consequence you cannot take the ensuing I year B.E. Exam. Please note."

The annexure to the above communication reads- "The candidate has passed the "Chemistry" in September 1982 examination. The candidates who have passed supplementary examination of the same academic year are not eligible for admission. Hence, the admission of the candidate is not in order and he may be

discharged from the college immediately."

Thus in the case of the two petitioners, the University has disapproved the admission on the ground that they were ineligible for admission during the academic year 1981-82 as they had failed in the annual examination of 1981 and passed in the September examination.

(v) W.P. No. 14379/1983: The petitioner had passed the Pre-University examination in the State of U.P. in the year 1980. He had secured 44% mark? in Physics, Chemistry and Mathematics. But nevertheless he was admitted to the Dayanandasagar College of Engineering during the academic year 1981-82. According to the petitioner, he had paid a capitation fee of Rs. 20,000/-. The petitioner claimed and got admission on the ground that he belonged to Backward Tribe or, the basis of a certificate issued by the Tahsildar, Bangalore South Taluk. His admission was disapproved and the same was communicated to him on 26-8-1982 vide Annexure-A. It reads:

"The candidate has passed the Intermediate exam from U.P. Board with P.C.M. group during 1980. He has secured 44% marks in P.C.M. It is mentioned in the admission statement that he belongs to Backward Tribe and he has produced Backward Tribe Certificate to the effect that he belongs to Yadav Community, which is recognised as Backward Tribe by the Tahsildar, Bangalore South Taluk. As per by Government Order, there is no community Yadav which comes in Backward Tribe.

Hence he is not entitled to get reservation in the % of marks.

His admission therefore cannot be approved."

According to the petitioner as he belonged to Yadav community of U.P. and as Yadavas are declared as Backward Tribe by the State Government, he was entitled to be admitted even though he had secured less than 50% marks.

5. Having set out the facts in each of the petitions, I shall now consider the case on merits.

(i) W.P. No. 14352/1983: In this case, the only fact which is required to be verified is as to whether the petitioner had passed the Intermediate examination conducted by the U.P. Board of Intermediate Education. The marks card produced by the petitioner is the one issued by the head of the institution at which the petitioner had studied. He has not produced any certificate issued by the Board. As stated earlier, letters have been addressed to the U.P. Board on 20-6-1983 and 8-7-1983 seeking its confirmation as to whether the petitioner had passed the Intermediate examination. Therefore in this case the admission of the petitioner could be cancelled only if it is proved that the petitioner has not passed the intermediate examination. Therefore in this case a direction has to be issued to the University to make an inquiry into the question as to whether the petitioner has passed the U.P. Board Intermediate examination and to pass final order depending upon the result of the said inquiry.

(ii) W.Ps. 14377 and 14378 of 1983: Admittedly the petitioners had not passed the Pre-University examination held in March 1982 as they failed in one subject in the said examination. It is only during September 1982 examination, the petitioners passed in the failed subject. According to Regulations, the academic year 1982-83 commenced on 15th June 1983. The relevant regulation reads-

"2. Duration of the Course:-The course of study shall extend over a period of 4 years. Each academic year will ordinarily begin on 15th of June and close on 15th of March of each year with winter and summer vacations to be prescribed by the University."

Learned Counsel for the petitioners submitted that actually the classes commenced from 1st July 1982 and the admission of the petitioners was valid as the last date for admission was upto 31st October 1982 and the petitioners had passed in the failed subjects before 31st October 1982. Admittedly the classes during the academic year commenced on 1st July 1983. In my opinion, the last date fixed for admission has no relevance to the question of eligibility. The significance of the last date fixed for admission is, a candidate possessing eligibility before the commencement of the course and selected, who might for one or other reasonable cause unable to join the course immediately, is given time till that date to join the college. Admittedly both the petitioners were ineligible for admission to the course at the time of commencement of the course and for more than three months thereafter. Therefore, there can be no doubt that these two petitioners were ineligible for seeking admission to the Engineering course during the academic year 1982-83. The disapproval of their admission by the University is correct and there is no ground for interfering with the said decision of the University. However, if the petitioners have secured more than 50% in the Pre-University examination, there could be no objection for their admission to the first year B.E. Degree Course during the current academic year.

(iii) W.P. Nos. 29245/92 and 14371 and 14372 of 1983:-In all these cases, the petitioners claimed admission on the basis that they belong to Backward Tribes even though they have secured less than 50% marks in the Pre-University examination. As stated earlier it is common ground, candidates belonging to Backward Tribes are eligible to be admitted even though they had secured less than 50% marks in passing the qualifying examination. But the question for consideration is whether these petitioners belong to Backward Tribes. The petitioner in W.P. 29245/82 claims that he belongs to Laddaf Community of Andhra Pradesh and states that it is equivalent to Backward Tribe. The petitioners In W.Ps. 14371/1983 claim that they belong to Darveshu Community of this state which is declared as Backward Tribe by the State Government. The petitioner in W. P. 14339/83 claims that he is also a Backward Tribe candidate as he belongs to Yadav Community of Uttar Pradesh.

6. Sri Nanjundaswamy, learned Counsel for the petitioner, in W.P. 29245/82 contended that persons belonging to Laddaf community of Andhra Pradesh are equal to Darveshu community of this State which have been declared as

Backward Tribes and, therefore, he was entitled to be admitted, even though he had secured less than 50% marks. Sri Savanur, learned Counsel for the petitioners in W.P. 14371 and 14372/83, contended that the petitioners therein had produced certificate to the effect that they belonged to Daves Community of this state and, therefore, the University had to approve their admission even though they had secured less than 50% marks. Sri S. Krishnaiah, learned Counsel for the petitioner in W.P. 14339 of 1983 contended that as under the relevant Government Order, "Yadava" community has been declared as belonging to backward tribe, the petitioner who had produced certificate from the Tahsildar. Kashipur, Dist. Nainital, to the effect that he belonged to Yadav community which is backward tribes, was entitled to be admitted even though he had secured less than 50% marks.

7. The tenability of the claim of these four petitioners has to be decided on consideration of the Government declared as to who were to be regarded as Backward Classes, in which category the backward Tribes are included for purposes of Arts 15 (4) and 16(4) of the Constitution is the order dt. 22-2-1977. The said order was based upon the report of the Karnataka Backward Classes Commission namely the Havanur Commission. The said Commission was appointed by Government Order dt. 8-8-1972. The terms of reference to the commission were-

*(1) To suggest the criteria to be adopted for determining whether any classes of persons In the State other than the Scheduled Castes and the Scheduled Tribes may be treated as socially and educationally backward classes;

(2) To investigate into the living and working conditions of all such classes of persons with special reference to the difficulties under which they may be labouring and to make recommendation as to the special provisions which are necessary to be made by the Government for their advancement and for the promotion of their social, educational and economic interests generally:

(3) To make a list of all classes which may be regarded as Backward Classes in the State;

(4) To suggest what reservations should be made for such cases in the educational institutions maintained by the State or receiving aid out of the State funds:

(5) To suggest what other concessions like scholarships, etc., may be given to such classes by way of assistance?

(6) To determine to what extent such classes are represented in the services under the State and to recommend what reservations of posts in such services may be made for them;

(7) To generally advise the Government about the steps to be taken to ensure adequate safeguards for the backward classes of citizens In the State." (Underlined italic by me)

The commission made elaborate inquiry and submitted its reports. In respect of declaring certain sections of Muslims as backward classes, the Commission stated thus:

"Muslims in toto cannot be considered as backward class. The commission has, however, treated some known and readily identifiable sections of Muslims as backward classes who are declared by the Government either as Denotified Tribes or as Nomadic Tribes." (See page 621 of Vol-1 part of Commission Report) (Underlined italic by me)

At Chapter XXVII of the report (Ibid p. 326-331) the Commission has set out the various particulars about Nomadic and Criminal Tribes. The relevant part of the report sets out the religion and hereditary occupation of these tribes. Statement 9 in Vol II of the report at pages 227 to 232, furnishes the list of socially and educationally backward tribes and their population figures in 1972. The statement indicates, even the population figures of Darveshus were not available obviously for the reason they were only a very small section among Muslims. The population of Gollas which includes Yadavas is given. It was 54,806 in 1972. The above report was accepted and the State Government issued the order dt. 22-2-1977. In the preamble to the said order, after setting out the terms of reference, the Government proceeded to State as follows:

"* * *

Read- (1) Government Order No. SWD 81 SET 71 dated 8th August 1972.

(2) Notification No. SWD 302 SET 13, dt. 9th October 1973.

Preamble;

(3) The Commission has conducted a socio economic survey of villages and towns/city blocks and has recorded the evidence of witnesses and has given its report.

Order No. SWD 12 TBS 77 Bangalore dt. 22nd day of February 1977

1. After careful consideration of the various recommendations made by the commission, Government are pleased to direct as follows:

I, The backward communities, Backward Castes Backward Tribes as mentioned in the list appended to this order shall be treated as Backward Classes for purposes of Art. 15 (4) and 16 (4) of the constitution of India. Only such citizens of these Backward classes whose family income per annum from all sources is Rs. 8,000 (Rupees eight thousand only) and shall be entitled to special treatment under the Articles." (Under lined italic by me)

The terms of reference to the Commission the Socio economic survey conducted by the Commission and the final Government Order, all indicate that the castes and communities which have been declared as Backward Classes including Backward Tribes are all castes and communities of this State and has no

reference and does not cover castes and communities outside the State, Therefore the petitioner in W.P. 29245/82, who, admittedly belongs to Laddaf community of Andhra Pradesh, cannot claim to belong to Backward Tribe of his State. Even on the basis that the assertion made

by the petitioner to the effect that Laddaf community in Andhra Pradesh is equal to Darvesh Community included in the Government Order for which assertion there is absolutely no material, he cannot be treated as backward tribe of this State, as he hails from the State of Andhra Pradesh. Similarly in the case of the petitioner In W.P. No. 14339/83, he claims that he belongs to Yadav community of Uttar Pradesh. It is only persons belonging to Yadava community of this State, who are declared as belonging to Backward Tribes and it is they who are entitled to concessions in this State. Therefore he is also not entitled to the concession given to backward tribes of this State, Admittedly both these petitioners have secured less than 50% marks in the Pre-University equivalent examination and, therefore, ineligible for admission to the B.E. Degree, course in this State. Therefore the University was right in disapproving their admissions.

8. As far as the petitioners in W.Ps. 14371 and 14372/1983 are concerned, they claim to belong to Darvesh community of this State. The University was not satisfied that they belong to Darvesh Community of this State. According to the Institute, the petitioners had also produced necessary certificate in support of their claim that they belong to Darvesh Community and, therefore, were eligible to be admitted even though they had secured less than 50% marks. In a situation like this, it was necessary for the University to have held an inquiry in conformity with the rules of natural justice before disapproving their admission, These two cases are similar to the batch of cases in W.P. No. 4453 of 1983 and connected petitions decided on 4-8-1983, in which a direction has been issued to the University to hold an inquiry into the truthfulness of their claim that they belong to Backward tribe. Therefore in these two cases it is necessary to make an order in terms of the order made in the said batch of Writ Petitions directing the University to hold an inquiry and record a finding as to whether the claim of these two petitioners are correct and to pass appropriate orders, As regards the criteria to decide as to who among Muslims can be regarded as belonging to Darveshu Community, I have considered it elaborately in the Judgment pronounced today in W.P. Nos. 1389 and 14566 of 1983 (Syed Noor Fathima v. State of Karnataka) and the University shall hold the inquiry in the light of the said order.

9. Learned Counsel for the petitioners, cancellation of whose admission is found to be valid, contended that as they have already been admitted to the course and they have also spent considerable money and time, there was no justification for cancelling their admission, In support of their contention they relied on the judgment of the Supreme Court in Punjab Engineering College v. Sanjay Gulati (AIR 1973 SC 580). In particular, they relied on paragraphs 1, 2 and 3 of the judgment in which the admission of the students though made

contrary to the rules by holding what was called spot-test was allowed to stand reversing the order made by the Punjab & Haryana High Court.

10. In the above case, the Punjab and Haryana High Court struck down the selection of certain candidates on being challenged by better meritted candidates before the High Court. The Supreme Court considered that having regard to the fact that the candidates whose selections were quashed by the High Court had completed one or two semesters, it would be unjust to cancel their admissions at that stage, Learned Counsel for the petitioners contended that the same consideration must weight in favour of these petitioners.

11. It appears to me that the said consideration given by the Supreme Court in favour of the students who had been admitted by conducting a spot-test in violation of the rules and who had completed one or two semesters cannot be applied to cases where the students have been admitted to the course even though they were ineligible for admission. In other words if certain students, who were eligible for admission to a course were admitted in preference to better meritted candidates and if such selection remain undisturbed for considerable time, the Court would decline to set aside their selection for the reasons that though their selection can be said to be contrary to rules of admission it cannot be said that they were ineligible, for admission. This is because, in the absence of a challenge to such selection before the Court by better meritted candidates, the selection of the admission less meritted candidates would remain valid and there would be no basis for cancelling the admission of such students. Even in a case where better meritted candidates challenged the selection of candidates with lesser merit, it would be open for the Court to decline to interfere on grounds of delay, laches, acquiescence on the part of the petitioning candidate or on other equitable grounds such as lapse of time and the like. But the cases of ineligible candidates whose selection is cancelled by the University stand entirely on a different footing for, the Court is requested to set aside a valid cancellation of invalid admission and it is not open for the Court to do so. The cases of the four petitioners, who are ineligible and still admitted are of this category and. therefore, there is no basis or justification to set aside the orders of the University (See: Order made in W.P. No. 5782 of 1983 and connected cases dt. 5-10-1983),

12. Before concluding, I am constrained to express my anguish about the admission of ineligible candidates by private colleges. Large number of cases, which are coming before this Court during the last few years have shown that in the matter of admission to professional courses, the private colleges have been making admission flouting the Regulations of the University regarding eligibility for admission and they do not furnish information relating to the qualification of the candidates admitted, to the University within a reasonable time after admission, with the hope that either the University might not cancel the admission after long lapse of time or if the University does, this Court will come to he rescue of the students. As a result of such admissions, students with better

merit stand denied of the admissions the professional courses and naturally causes frustration among them. The situation so brought about by the illegal admissions by private colleges, prompted by monetary consideration i.e., receipt of capitation fees and not consideration of promoting excellence in education, is not only injurious to individuals with better claim and merit, but in the ultimate analysis is also injurious to the interest of the society. It is said "money makes many things". Indeed these and other cases coming before this Court, have proved that money makes up for the deficiency in marks and even for intelligibility, at the hands of private colleges. But the University cannot remain a silent spectator. It is under a statutory public duty to stop such admissions by private colleges. Therefore, I am not impressed by the plea of the University that prompt action for cancellation of such admission could not be taken as information or report about admission were not sent by the private colleges within a reasonable time.

13. The University cannot plead helplessness in the matter. It is given ample powers under the Act to discipline the private colleges. The University should fix a time limit, say fifteen days or one month from the last date fixed for admission before which every private college must submit returns regarding admission in a prescribed form and the University should approve or disapprove the admission within a month thereafter. If any college fails to do so, the University could also nominate an officer or committee to scrutinise the admission visiting the concerned college and send his/its report on the basis of which the University should pass appropriate orders. It is for the University to take such steps as it considers necessary to stop illegal admissions by private colleges and cancel such admissions if made within about a month after admission and also to impose, such sanctions on erring colleges as are permissible under the provisions of the Act.

14. Undoubtedly, these private colleges have been established by philanthropists and service minded individuals with the laudable object of serving the needs of the Society in the field and the service they are rendering is certainly commendable. But admission of ineligible candidates cannot be excused for, private Colleges, which receive the recognition and affiliation under the provisions of the Universities Act, also owe a public duty to make admission in accordance with law. I hope and believe that they would realise this aspect and give no occasion for cancellation of admission made by them by making admission in accordance with the regulation and rules by which they are governed.

15. For the reasons aforesaid, I make the following Order:

(i) W.P. No. 29245/182: The Petition is dismissed

(ii) W.P. Nos. 14371 and 14372/ 1983: a. The petitions are allowed.

b. The University is directed to hold an inquiry and pass appropriate orders in terms of the order made in W.P. No. 4453/1983 and connected cases dt.

4-8-1983 and in the light of the order of this Court in W.P. Nos. 13890 and 14556 of 1983 dt. 5-10-1983.

(iii) W.P. Nos. 14377 and 14378/ 1983: The petitions are dismissed leaving liberty for the colleges to admit the petitioners for the I Year B.E., Course during the current academic year i.e., 1983-84 if they are otherwise eligible for admission.

(iv) W.P. No. 14379/83; The petition is dismissed.

(v) W.P. No. 14352/83; a. The petition is allowed.

b. A Writ in the nature of mandamus shall issue to the University to verify the genuineness of the certificate produced by the petitioner from the institution for having passed the U.P. Intermediate Examination and to pass appropriate orders depending on the result of the verification within three months from today.

(vi) No costs.