
(1996) 02 KAR CK 0004
In the Karnataka High Court
Case No : W.Ps. No"s. 2204 to 2206 of 1996

Dr. Annapurna

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 02-02-1996

Acts Referred:

Citation : (1996) ILR (Kar) 1166 : (1996) 2 KarLJ 226

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

Bench : Single Bench

Advocate : Nyayamitra, S.M. Chandrasekhar and Ko. Vijayakumar, for the Appellant; A.V. Srinivasa Reddy, Government Advocate and N.B. Vishwanath, HCGP, for the Respondent

Final Decision : Allowed

Judgement

Saldanha, J.—I have heard the learned Advocates representing the petitioners as also the learned Government Advocates. A clear cut point of law arises in these Petitions which requires to be set down more so for the guidance in all future situations. Often times, students approach the Court on the ground that they have wrongly been deprived of admission and by the time the Court orders are passed, particularly in professional courses, it is no longer possible to admit or accommodate the students in that year's batch as there are several requirements such as attendance, practical training etc., which cannot be by passed. It is therefore customary for the Court to direct that the students in question should be accommodated in the following year and the authorities carry out these directions in the next academic year. It is however necessary to very clearly specify when such directions are issued that if the Court considers it incumbent that the students must be accommodated for the following academic year, that this will have to be done treating those cases as supernumerary seats as otherwise, it will have the effect of depleting the number of seats available to the students of the subsequent batch. The position in law that emerges is that if this procedure is not followed, there will be certain reduction in numbers of the

available seats in the following academic year and the last of the students who would otherwise have secured admission but for the inclusion of previous year's seats would be entitled to claim that their rights have been infringed for no fault of theirs. Whatever be the grounds on which the admissions are required to be carried over, nothing can justify the reduction in the number of seats in the subsequent year because of an error committed in the previous year and it is for this reason that the aforesaid procedure will have to be strictly followed herein after.

2. I need to record here that the four petitioners in these Writ Petitions have contended that they have secured the requisite marks for admission to the course but that they could not secure admission because seven students have been carried over from the previous year to the present year. It is their contention that but for this depletion of seven seats four of them would have qualified for admission and a scrutiny of the records indicates that this contention is correct. The learned Government Advocate has pointed out that there has been no fault whatsoever with regard to the selection procedure, that the admission have been done strictly on the basis of merit and in consonance with the Rules and that the Officers have followed the Court directions which they are obliged to do. I do not dispute this position and it is obviously by oversight that the Court did not clarify that while accommodating the seven students, an equivalent number from the subsequent batch should not be reduced. I do concede that there is no fault on the part of the authorities but that would not justify the exclusion of the petitioners who have moved this Court and pointed out that their non-inclusion in the admission list infringed their rights.

3. It is therefore essential that appropriate corrective action be taken. This can conveniently be done by treating the seven carry-overs from last year as supernumerary seats and accommodating the four petitioners in their place. This is the only direction that needs to be issued but it was equally essential that the legal position be clarified in order to avoid repetition of what has happened as far as these admissions from the previous year are concerned.

4. The Petitions accordingly succeed. The four petitioners shall be permitted to pay their fees and obtain admission in the normal course. Rule absolute to this extent. No order as to costs, The petitioners shall however ensure that they comply with all the formalities relating to the admission within a period of seven days from today.