

(1995) 02 KAR CK 0030
In the Karnataka High Court
Case No : Writ Petition No. 4040 of 1995

Dr. Mrs. V. Ambujakshi

APPELLANT

Vs

Bangalore University and others

RESPONDENT

Date of Decision : 23-02-1995

Acts Referred:

Karnataka State Universities Act, 1976 — Section 12 (3)

Citation : AIR 1995 Kar 369 : (1995) 2 KarLJ 191

Hon'ble Judges : J. Eswara Prasad, J

Bench : Single Bench

Advocate : Mohan Rangam, for the Appellant; M.N. Sheshadri, for the Respondent

Judgement

1. At the stage of admission both the learned counsel for the petitioner and the learned Standing Counsel for the respondents were heard and the writ petition is disposed.

2. The petitioner filed this writ petition by way of public interest petition complaining that the first respondent-University has grossly violated the regulations and the recommendations of the Medical Council of India and Graduates Medical Council by issuing Annexure-D, the time table scheduled to commence all the examinations for MD&BS Course from 23-2-1995 onwards. She challenges the fixation of the dates of examinations, as arbitrary, without application of mind and illegal. The petitioner claims interest in the proper conduct of the affairs of the respondent-University and the Medical Education.

3. The learned counsel for the petitioner Sri Mohan Rangam strenuously contended that the commencement of examinations for the first and the second year MBBS students on 23-2-1995 is contrary to the Medical Council of India's recommendations inasmuch as there was no sufficient gap between the last examinations held on 1-9-1994 and the date of examinations fixed on 23-2-1995. He further contends that the results of some of the candidates were withheld and revaluation of the answer papers of the failed candidates was not

done and therefore the fixation of the date on 23-2-1995 for the next examinations is illegal, as those students do not have sufficient time to prepare for the examinations in the event of failure in the previous examinations.

4. Sri Sheshadri, learned Standing Counsel appearing for the University firstly contended that the writ petition is not maintainable as the petitioner has no locus standi to maintain the writ petition on behalf of the students who intend to appear at the examination. He further contended that there was a clear gap of 5½ months between the earlier examinations and the next examinations to commence from 23-2-1995. He contends that the decision to commence the examinations from 23-2-1995 was taken by academicians where 5,500 students are likely to appear and it is not proper to affect their rights at the instance of the petitioner as there was no contravention of the regulations or the recommendations of the Medical Council of India. He further contends that if the examinations are postponed, there will be chain reaction, resulting in postponement of successive examinations ultimately affecting the pattern of examinations to be held during March/April each year and that all the necessary preparations for holding the examinations have already been completed and the entire process will be upset, if the prayer of the petitioner is granted.

5. It is not disputed that the earlier examination commenced on 1-9-1994 and was completed on 14-9-1994. On 6-12-1994 a notification was issued, fixing the date of next examinations on 13-1-1995 and on the representation of the students, the said date was altered and the examinations for the first and second year MBBS scheduled to commence from 23-2-1995. According to the recommendations of the Medical Council of India, there should not be more than two examinations in a year, within an interval of 4 to 6 months between the examinations.

6. Obviously, the fixation of 23-2-1995 as the date for the commencement of the examinations fails within the guidelines of the Medical Council of India as there is a clear gap of 5½ months even from the last date on which the earlier examinations were over on 14-9-1994 and the date of commencement of the next examinations from 23-2-1995 during the relevant academic year. The petitioner cannot complain of the violation of the recommendations of the Medical Council of India. There is no other regulation governing the subject, which would run contrary to the programme of examinations fixed by the University.

7. The next contention of the learned counsel for the petitioner that the results of the candidates which were withheld at the previous examinations and the revaluation of the answer papers of the failed candidates not having been commenced would jeopardise their interest, is also without substance. The learned Standing Counsel produced the notification of the University dated 17-2-1995 where the provisional revaluation results of candidates who appeared for MBBS examinations held during Sept. 1994 were published. This publication was sufficient to put the candidates who failed in the earlier examinations on

notice, that they have to appear at the next examinations. There was no reason for the failed candidates to take it for granted that they would be successful and will not have to take the examinations again, until the revaluation results are announced and it was incumbent on their part to prepare for the next examinations, which were announced even by 6-12-1994. The contention of Sri Mohan Rangam that the notification dated 17-2-1995 was ante dated has no basis and there is no reason to doubt the date mentioned in the notification and to hold that it is ante dated.

8. The next contention of the learned counsel for the petitioner is that the resolution of the academicians who are said to have fixed the dates of the next examinations is not produced and therefore it should be taken that there was no such resolution. This contention is met by the affidavit sworn to by the Deputy Registrar of the University which was filed in support of the statement of objections, wherein it was stated that there was such a meeting of Principals of all the seven colleges, Dean Faculty of Medicine and Registrar Evaluation and that it was unanimously agreed to reschedule the examinations 23-2-1995. There is no material to doubt the University of the said statement, made on oath.

9. It is significant to note that about 5,500 students are scheduled to appear at the examinations but none of them have approached this court, questioning Annex.-D. No doubt, there were a few hundred candidates present in court throughout the hearing of the case, but that cannot be taken as the common cause of all the candidates. At the instance of the petitioner, the rights of a large number of candidates to appear at the examinations cannot be thwarted.

10. As observed earlier, there was no violation of any regulations of the University nor the recommendations of the Medical Council of India in fixing the date of commencement of the next examinations. As rightly contended by the learned Standing Counsel for the respondents, if the examinations are postponed there will be chain reaction, resulting in postponement of successive examinations ultimately affecting the pattern of examination to be held during March-April each year and thereby the rights of thousands of candidates will be affected if the examinations scheduled is to be postponed. It is also to be noted that the other Universities have already conducted the examinations and the candidates who come out of the Colleges affiliated to the respondent-University would lag behind. The examinations schedule is already prepared and the necessary arrangements for holding the examinations such as making the question papers ready, arranging the centres of examinations etc. will be upset.

11. Sri Mohan Rangam referring to Section 12(3) of the Karnataka State Universities Act, 1976 contended that the Vice Chancellor shall ensure the observance of the provisions of the Act, the Statutes Ordinances, Regulations and Rules and that he shall have all powers necessary for that purpose and that the Vice Chancellor should have exercised the powers conferred on him. As observed earlier, there was no violation of any Regulations, Statutes or Ordinances in fixing the dates of examinations and therefore the Vice Chancellor

cannot be found fault with and no violation of sub-section (3) of Section 12 can be attributed.

12. The contention of the learned Standing Counsel for the respondents that the petitioner has no locus stands to maintain the writ petition needs examination. The petitioner was elected as the Member of the First Senate of the Bangalore University and has been a Member of the Academic Council. She served as a Member of the Karnataka State Secondary Examination Board. She was also elected and nominated as a Member of the Governing Council of NIMHANS as the representative of the Respondent University and also to the Civil Aviation School and served as a Member of Selection Committee of the Post Graduate Degree and Diploma Courses in the said institution. In view of the keen interest evinced by the petitioner in the academic affairs of the State, it is not possible to hold that she cannot maintain a writ petition involving public interest concerning the academic affairs. It is therefore to be held that the writ petition is maintainable.

13. It was held in Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, that the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day today working of Educational Institutions and the Departments controlling them.

14. In State of U.P. and Others Vs. D.K. Singh and Others, the Supreme Court held that "when an academic year should commence and when it should end is a matter for the educational authorities and not for the courts. We cannot dislocate the time schedule of the University merely for the convenience of a few students."

15. Similar view is taken by this court in Writ Petition No. 23075/1989 dated 5-1-1990. In the absence of any violation of any regulations or the recommendations of the Medical Council of India, the schedule of examinations cannot be disturbed. The contentions of the learned counsel for the petitioner are all rejected.

16. Before parting with the case, it needs to be observed that it was unfortunate that a few hundred students wasted their precious time by being present in court throughout the proceedings, instead of preparing for the examinations. Any amount of sympathy by the court cannot persuade the court to direct postponement of the examinations.

17. It is also to be noted that the results of the examinations of the candidates who sought revaluation and the candidates whose results were withheld were declared as late as on 17-2-1995 though the examinations were held in Sept. 1994. It is necessary that the University should spare no effort to declare such results as expeditiously as possible and save the students the agony of waiting long for the results and leaving them a very short period for getting prepared for the next examinations in the event of their failure.

18. The writ petition falls and it is dismissed.

19. Petition dismissed.