

(1996) 02 KAR CK 0054

In the Karnataka High Court

Case No : W.Ps. No's. 29892-93, 32538-39, 35399, 31944-501 of 1995 and etc.

Dr. Thota Ravindra and Another etc.

APPELLANT

Vs

The Gulbarga University, Gulbarga and Others etc.

RESPONDENT

Date of Decision : 08-02-1996

Acts Referred:

Citation : AIR 1996 Kar 337 : (1996) ILR (Kar) 1316 : (1996) 2 KarLJ 397

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

Bench : Single Bench

Advocate : S.M. Chandrasekhar, for the Appellant; S.S. Koti and P.S. Mali Patil and A.V. Srinivasa Reddy Govt. Advocate, for the Respondent

Judgement

1. This batch of writ petitions filed by a group of Post Graduate Medical Students from the Gulbarga University raises one clear cut point for decision namely the question as to whether these petrs. who are now doing the Post Graduate Course after doing their Diploma Courses, or who are doing Diploma after having done the Senior Housemanship are entitled to claim the one year exemption that was provided for under the University's Regulations prior to 10-7-95. The position is undisputed that at the time when all these petrs. joined their courses of study, that the Regulation did provide for such exemption of one year but the University authorities by a notification issued on 10-7-95 which is under challenge in this group of writ petitions withdrawing the one year exemption. As a necessary consequence, the petrs. contend that though they had asked for the one year exemption that the University refused to make it available on the ground that the one year exemption rule is no longer applicable and the same having been withdrawn and consequently that their applications were either returned or rejected. It is against this decision that the present set of petitions has been filed.

2. I have heard the learned advocate who represents the petrs. as also the learned advocate who represents the University. The University has filed its objections in all these petitions and has also produced the directions issued by the Supreme Court and reliance is sought to be placed on certain earlier

decisions of this Court in more or less similar cases. Broadly, the contention raised is that it is within the power of the University to take a decision with regard to the grant of exemptions and that consequently, the petrs. are not entitled to question the same through these petitions. Reliance is sought to be placed in this regard on the provisions of Regulation 39 of the Karnataka State Universities Act, 1976 apart from which, the respts. learned advocate submitted that the Supreme Court had occasion to direct that the system of uniformity should be brought about as far as different courses are concerned. Learned advocate has also submitted that the matter has been considered by the Academic Council of the University as also by the Syndicate and that after a very careful appraisal, that a decision was arrived at to withdraw the one year exemption in order to bring a degree of uniformity with regard to the course of study to all the students pursuing their courses. Learned advocate emphasised the fact that the University authorities are concerned with the maintenance of high academic standards particularly where Post Graduate students are concerned and that secondly it was not found desirable to grant exemption in respect of what the earlier considerations were. He further submitted that the rule has emerged as a result of not only the Courts directions but also very careful deliberations by experts in the academic field and no case whatsoever has been made out for challenge to that decision.

3. I need to record that the petrs. learned advocate has clarified that he has not attached the validity of the decision nor has he challenged the rationale behind it but his challenge is confined to the method of implementation or in other words, to the timing of the decision and the applicability of the decision to the present batch of students. Having regard to this position, and having regard to what has been pointed out on behalf of the University, there is no need for this Court to examine the validity of that decision. I need to observe that prima facie, the University authorities do appear to be more than fully justified in having taken this step. The validity of decision is therefore upheld.

4. As indicated by me, the petrs. learned advocate has concentrated his challenge on two aspects of the matter. Firstly he contends that when these petrs, had joined the courses of study, that as per the Regulations that were then in force, they were eligible for the one year exemption and that they have pursued their careers in the light of this exemption. He submits that this being the position, any midterm alteration of those Regulations would not be permissible because it would alter the situation to the prejudice of the petrs. He contends that it is not merely the question of having to do one additional 1 year's study but that the petrs. were clearly assured earlier of exemption from one year's study and that under these circumstances in keeping with the well settled principle there cannot be any mid term changes in respect of an academic curriculum, once a student has commenced with the course of study. He submits that the decision to withdraw the exception can only be given effect to prospectively and not as far as the present batch of petrs are concerned. As far as this head is concerned, I consider it necessary to uphold it for the reason that

admittedly, all students, particularly. Post Graduate students do involve themselves in a high degree of career planning and if, as is the undisputed position, the course of study as undertaken by them was of a particular duration which also meant that the method under which the course of study was to be completed was altered in their cases, if these Rules were to be thereafter revoked, it would cause a high degree of dislocation to those who are a good deal of the way through their courses and therefore the petrs. learned advocate is fully justified in pointing out that this should not be permitted as far as the present batch of petrs. is concerned.

5. He has on a far stronger footing when he relies on Regulation 39(d)(3) which points out that every Regulation shall come into force on the date it is approved by the Chancellor or on such other date as the Chancellor may direct..... He has drawn the attention of the Court to the notification dt. 10-7-95 and he contends that having regard to the assent that was obtained on 6-7-95 that this notification can only be given effect to from 10-7-95. He submits therefore that Regulation 39 (d)(8) is unambiguous in so far as it can only come into force on 10-7-95 and not earlier to that. He therefore submits that the refusal to accord the exemption to the petrs, who had asked for it prior to the date and more so who are eligible for it, having commenced their studies earlier cannot be taken away by giving retrospective application to the Regulation which is clearly prohibited under Regulation 39. This position is undoubtedly correct in law and to my mind will have to be upheld in the petitioners favour principally on the ground that it is impermissible to alter the duration of a course of study after it has commenced.

6. Learned advocate who represents the University points out to me that it will have to be ascertained in the light of the Courts decision as to whether or not each one of the petitioners fully qualifies for the exemption factually and secondly as to whether or not they have claimed the benefit of the old Regulation within the prescribed time period. Though the petrs. learned advocate submits that this is the position, the University authorities must necessarily, be granted the liberty of ascertaining the correct facts. However, since the examinations are due very soon, this procedure must be completed as expeditiously as possible, in any event, before the end of this month. The learned advocate who represents the University has asked for some reasonable time for the implementation of the directions in view of the number of cases involved and the procedures that the University will have to go through. It is for this reason that I have extended the time but that shall be conditional on the fact that since prima facie the petrs appear to be eligible for the examination that the fee shall be accepted for the forthcoming examination on a tentative basis even though the last date has elapsed and that they will be entitled to appear for that examination subject to the decision being conveyed by the University to them. The petrs shall be informed of the decision of the University so that they can prepare for the forthcoming examination. If any of the earlier results have been withheld, they shall also be declared within the same period of time.

7. Having regard to the aforesaid situation, this group of petitions succeeds. Rule is made absolute to this extent. No costs. Learned Govt. Advocate is permitted to file memo of appearance within 3 weeks. Office is directed to furnish a copy of the order immediately.

8. Petitioner allowed.