

(2008) 09 AP CK 0082

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12439 of 2008

G. Hema Ravi Sampan rep. by its Natural guardian and
Father G. Harichandra Prasad

APPELLANT

Vs

Rajeev Gandhi University of Knowledge and Technologies and
Others

RESPONDENT

Date of Decision : 16-09-2008

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2009) 1 ALD 272 : (2009) 2 ALT 547

Hon'ble Judges : B. Seshasayana Reddy, J

Bench : Single Bench

**Advocate : K. Satyanarayana Murthy, for the Appellant; A.G. for Respondent
Nos. 1 to 4, for the Respondent**

Final Decision : Dismissed

Judgement

B. Seshasayana Reddy, J.—This Writ Petition has been filed by G. Hema Ravi Sampan assailing the action of R1 to R4 in denying selection to him for admission into IIIT course for the academic year 2008-09. He also assails the selection of 5th respondent-Jalli Pushpa Ratnam Raju for admission into IIIT course for the year 2008-09.

2. Rajiv Gandhi University of Knowledge Technologies (for short University) has been established as an autonomous organization by Government of Andhra Pradesh under the Act called the Rajiv Gandhi University of Knowledge Technologies Act, 2008 (Act 18 of 2008) to educate the gifted rural students who may not have the benefit of special coaching classes. The selection of students for admission into IIT course in the University is based on the Local Best Model at the Mandal level. There are 6000 seats in all the three institutions of the University. 85 percent of the seats are reserved for students from rural schools of Andhra Pradesh, 15 % seats are earmarked for meritorious students at State level. 900 seats are proposed to be filled up on the basis of statewide merit. 486

seats from open category, 135 from SC category, and 54 from ST category, 63 seats from BC-A category, 90 seats from BC-B category, 9 seats from BC-C category and 63 seats from BC-D category. The remaining 5100 seats are earmarked for rural students and these seats are allotted to 23 districts taking the population of the district as criteria. Accordingly, 369 seats have been allotted to East Godavari District.

3. The petitioner studied SSC in Z.P. High School, Edarada, Mamidikuduru Mandal, East Godavari District. He appeared for SSC examination with Roll No. 0288480 in March, 2008. He secured 538 marks out of 600 and stood as a first ranker in Mamidikuduru Mandal. According to the petitioner, 5th respondent-Jalli Pushpa Ratnam Raju (SC) who secured 509 marks, figured in the selected list kept in the internet for admission into IIT course in the University for the academic year 2008-09 under OC category and whereas he secured 600 marks, but his name does not find place in the selected list.

4. Rule nisi came to be issued on 18-6-2008 and an interim order also came to be passed directing the petitioner to submit a representation to the Governing Council of the University for considering his name being included in the provisionally selected list vide WPMP. No. 16029 of 2008.

5. The respondents entered appearance and filed their counter affidavit. The admission procedure has been detailed in the counter affidavit, which reads as under:

Admission Procedure:

1. Admission to each constituent institute of this University will be after passing Secondary School Certificate (Tenth Standard) Examination in their first attempt in that academic year from the State of A.P.

2. The total intake of the students from Andhra Pradesh will be 6000 at the rate of 2000 per each institute at Basara, Idupulapaya and Nuzivedu.

3. There will be no entrance examination and admission will be strictly based on student's performance in the SSC examination.

4. Out of the total number of seats, 15 % of seats (as per the Presidential Order), i.e. 300 seats per institute will be open for state level toppers irrespective of their region, rural/urban background, category etc., while respecting the reservation norms.

5. In order to promote national integration and promote diversity, about 100 seats per institute (over and above 2000) seats will be open for other state students and admission will be on the basis of their combined merit in the State Board/AIEEE and interview. Preference will be given to the students coming from rural areas of the country.

6. For 85% of the seats, a region wise allocation will be as per the provisions of Presidential Order and based on the Census 2001. Accordingly, the region wise

allocation is as follows: Coastal Andhra-42%, Rayalaseema-22 % and Telangana-36 %.

7. The region wise allocation will be proportionately distributed among the districts and further among Rural Mandals as per the share of their population vis-a-vis the district based on the 2001 census. The Tables below show the seat allocation by region and by district for each reservation category.

8. Seats in the district will be divided amongst all educational institutes (government/local bodies, aided and private) located in rural mandals subject to the condition that not more than one student from each category will be selected per school.

9. The category wise reservation of seats will be BC-25%, SC-15%, ST-6% and Open-54 %. BC category will be further subdivided into subcategories as per Government Order, 33 percent of the seats in each category will be reserved for women candidates.

10. Rural Mandal is taken as a unit in selection of suitable candidates.

11. Assignments to Mandals may often lead to fractional seats. These fractions are added with other neighbouring Mandals until a single seat can be allotted to a group of Mandals.

12. The top student from each school in a rural mandal is selected. The best student is defined to be the top student in more subjects than his/her classmates in the same school.

13. The selection of best student is based on the principle of grading on the curve. The principle of grading on the curve works as follows: The top 3% of the students in each school in a given subject is given Grade A + (4 points); the next 7% is given Grade A (3 points), the next 10% is given Grade A (2 points), and the next 30% is given a Grade B (1 point). A cumulative Grade Point Score is calculated by adding the scores for all the subjects for each student in every school.

14. The Grade Point Score for all the students in the State is computed. The State wide Merit List candidates are selected representing the best students in each reservation category across the State.

15. When two or more students are the best students in the same number of subjects, then a tie-breaking procedure is applied as follows:

(maximum points a student can get is 24). We first select students who have the maximum number of subjects with 4 points).

i) If there is more than 1 student who has the maximum number of subjects with 4 points, e.g., 2 students with 4 points in three subjects, then we break this tie by selecting the one with maximum Grade Point Score.

ii) If there is further tie, that is they have same number of subjects with 4 points

and Grade Point Score, e.g., 4 points in three subjects and 3 points in 1 subject, then we select the one with highest number of marks in English.

iii) If there is further tie, then we select the one with highest number of marks in Mathematics.

iv) If there is further tie, then we select the one with highest number of marks in Sciences.

v) If there is further tie, then we select the one with highest number of total marks.,

vi) If there is a further tie, the older student (in age) will be selected.

16. After 900 students for the State-wide Merit list are identified, we proceed with the allocation of the remaining 85% of the seats. First, we identify the top student in each school within the Mandal, using the above tie breaking procedure where needed. From the top students in each school in the Mandal, the best students in the Mandal are selected based on Grade Point Score procedure as before. After the open category candidates are identified, selection is made in each reservation category based on merit within the category. Students are compared using the same criteria, i.e., one or more students with the largest number of A+s are selected (no more than one per school) based on number of seats assigned to the mandal, again using the tie breaking procedure, if necessary. At most 4 candidates, one each in OC, BC, SC and ST, can be selected from any given school.

17. The unselected best candidates in a mandal in each category will be added to a waitlist to be used in case a selected candidate does not apply.

6. Pursuant to the interim direction of this Court, the respondents considered the representation of the petitioner and communicated that he is not the top student in the school where he studied. In the communicated sent to the petitioner it is stated as under:

Given the principles of admission stated above, we regret to inform that G. Hema Ravi Sampan is not selected to RGU IITs, Ravi belongs to OC category from Mamidikuduru Mandal of East Godavari District. He is ranked "3" in his category in his school and is the top student in only two subjects with the grade point score of 20. Whereas Jana Manga Neeharika is the top student in three subjects with the highest of 100 marks in Maths and secured the grade point score of 20.

Hema Ravi Sampan is the top student in only TWO subjects with the grade point score of 20 as shown in the scores below:

							Subjects				L1	L2	L3	MA
SC	SO	TOT									Marks			
85	81	97	91	95	538									
Grade			Points				3		3		3		3	
								4			4			20

For example, Jana Manga Neeharika from the same school is the top student in Three subjects and secured highest marks of 100 in "maths" with the grade point score of 20

						Subjects					L1	L2	L3	MA	
SC	SO	TOT									Marks				85
76	82	100	91	91	525										
Grade			Points			2	3	4	4	4	3	20			

7. Heard learned Counsel appearing for the petitioner and learned Advocate General appearing for respondent Nos. 1 to 4.

8. Learned Counsel appearing for the petitioner submits that the petitioner secured 583 marks out of 600 marks and he stood as rank No. 1 in Mamidikuduru mandal and therefore he is entitled to a seat in IIIT course for the academic year 2008-09. He also submits that selecting less meritorious students for admission into IIIT is arbitrary, illegal and opposed to the provisions of Article 14 of the Constitution of India. He took me to the memorandum of marks of the petitioner issued by Board of Secondary Education.

9. Learned Advocate General contends that the selection of candidates for admission into IIIT is based on the principle of grading-on-the-curve and not on the marks secured in SSC examination. He took me to the admission procedure prescribed in the prospectus of the University for the year 2008-09. He also took me to the grade points secured by the petitioner and one Jana Manga Neeharika of the same school to contradict the contention of the petitioner that he is the top student in the school where he studied.

10. The admission procedure is very clear with regard to the selection of top student in the school. Selection of top student in the school is based on the principle of grading-on-the-curve. The top 3% of the students in each school in a given subject is given Grade A+ (4 points); the next 7% is given Grade A (3 points), the next 10% is given Grade A (2 points), and the next 30% is given a Grade B (1 point). A cumulative Grade Point Score is calculated by adding the scores for all the subjects for each student in every school.

11. The contention of the petitioner that he is the top student in the school can be negated by comparing the grade score point secured by the petitioner and the grade score points secured by Jana Manga Neeharika. As per the table indicated in para 6, the petitioner secured A+ (4 points) in two subjects and whereas Jana Manga Neeharika secured A+ (4 points) in three subjects. As per the admission procedure, a student who has the maximum number of subjects with A+ (4 points) is to be preferred. In comparison of the petitioner with Jana Manga Neeharika, latter is to be preferred since she secured more number of subjects with A+ (4 points).

12. Learned Counsel appearing for the petitioner tries to challenge the admission

procedure on the ground that it is contrary. I do not see any substance in his contention since the very object of establishing the University is to educate the gifted rural students who may not have the better coaching classes. The rural schools have been defined as schools located outside municipal and nagar panchayat areas irrespective of the type of management, government aided or private schools. The policy decision taken by the Government is to identify the local best student at the school level and thereafter at mandal level.

13. The scope and extent of judicial review of the High Court contained in Article 226 of the Constitution of India would vary from case to case, the nature of order, the relevant statute and also the other relevant factors including the nature of power exercised by the public authorities, quasi judicial or administrative. The power of judicial review is not intended to assume supervisory role or done the robes of omnipresent. The power is intended neither to review the governance under the rule of law nor do the courts step into the areas exclusively reserved by the Supreme less to the other organ of the State. Decisions and actions which do not have adjudicatory disposition may not strictly fall for consideration before a judicial review court.

14. The scope of judicial review of the policy decisions fell for consideration in *M/s. Ugar Sugar Works Ltd. Vs. Delhi Administration and Others*, wherein it has been held as follows:

Courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions of the executive unless the policy can be faulted on the grounds of mala fide, unreasonableness, arbitrariness or unfairness etc. Indeed, arbitrariness, irrationality, perversity and mala fide will render the policy unconstitutional. However, if the policy cannot be faulted on any of these grounds, the mere fact that it would hurt business interests of a party, does not justify invalidating the policy. In tax and economic regulation cases, there are good reasons for judicial restraint, if not judicial deference, to judgment of the executive. The courts are not expected to express their opinion as to whether at a particular point of time or in a particular situation any such policy should have been adopted or not. It is best left to the discretion of the State.

15. In *Ekta Shakti Foundation Vs. Govt. of NCT of Delhi*, the Supreme Court held as under:

The policy decision must be left to the Government as it alone can decide which policy should be adopted after considering all the points from different angles. In the matter of policy decisions or exercise of discretion by the Government so long as the infringement of fundamental rights is not shown, the courts will have no occasion to interfere and the court will not and should not substitute its own judgment for the judgment of the executive in such matters. In assessing the propriety of a decision of the Government the court cannot interfere even if a second view is possible from that of the Government.

16. In *All India ITDC Workers Union and Others Vs. ITDC and Others*, the

Supreme Court negated the challenge to the disinvestment policy of the government and held:

The Government of India constituted the Disinvestment Commission and accepted the recommendation of the said Commission. A decision was taken by Inter-Ministerial Group and at the level of the Cabinet Committee on Disinvestment to divest each property belonging to ITDC individually rather than altogether or in groups. The decision of the Government of India to divest the property was a policy decision which was not in any manner contrary to the law of the land. The present writ petitions filed by the employees merit to be dismissed since disinvestment was a policy decision of the Government of India. The said policy decision should be least interfered with in judicial review.

The procedure adopted by the University with regard to admission of the candidates is in consonance with the spirit of the provisions of the Act called Rajiv Gandhi University of Knowledge Technology Act, 2008 (Act 18 of 2008). The object of the Act is to educate the gifted rural students who would not have the benefit of special coaching classes. For admission to IIITs, Local Best Model at the Mandal level is selected. The procedure adopted by the University is transparent and there is no scope for any ambiguity with regard to selection of candidates to IIIT course and therefore the procedure adopted by the University cannot be termed as arbitrary or in violation of the provisions of Article 14 of the Constitution of India.

17. For the foregoing reasons, this writ petition fails and the same is dismissed. No costs.