

(2012) 10 KAR CK 0012

In the Karnataka High Court

Case No : Writ Petition No. 29475 of 2012 (EDN-CET)

Gireesh Naik

APPELLANT

Vs

The Karnataka Examinations Authority and Principal
Secretary Dept. of Higher Education Govt. of Karnataka M.S.
Building Bangalore

RESPONDENT

Date of Decision : 19-10-2012

Acts Referred:

Citation : (2012) 10 KAR CK 0012

Hon'ble Judges : Huluvadi G. Ramesh, J

Bench : Single Bench

Advocate : B.S. Gautham, for the Appellant; N.K. Ramesh for R1, for the Respondent

Judgement

Huluvadi G. Ramesh

1. The petitioner has sought for issue of Writ of Mandamus directing the respondent to consider the case of the petitioner for restoration of the seat allotted to him based on CET ranking at the Navodaya Medical College, Raichur and to pay costs of the proceedings. The petitioner belongs to Scheduled Caste. He has secured 85% in SSLC and passed his PUC in first class from GM Hallamma Pre-University College and appeared for CET examination and obtained 7604th rank and according to him, he was also allotted with the seat in SCG category along with the college code. He was also issued a printed letter by the CET confirming the allotment of seat of his choice No. 2. As per the manual issued by the Karnataka Examinations Authority ("KEA" for short)-respondent No. 1 in page No. 31 as per choice No. 2, if fresh options get allotted, then the earlier allotted seats get cancelled automatically or if fresh options are not allotted, then the earlier seat remains in candidate's favour.

2. The grievance of the petitioner is that respondent No. 1 has erred in cancelling the choice No. 2 and changing it to choice No. 3 without any request from the petitioner and also allotting the seat to another person. According to him, he also

loses one year of studies and also there will be no seat in the other colleges. As such, the petitioner is before this court.

3. Heard.

4. It appears, earlier the petitioner was allotted Civil Engineering seat for the year 2011-12 and later, he joined the veterinary course. However, after having joined the veterinary course, he has not intimated the KEA by surrendering the seat allotted for Civil Engineering course, as per the CET ranking. However, he has taken up admission in the Veterinary college.

The allegation of the respondent-KEA is that there is grave error on the part of the petitioner in not intimating the KEA well in advance about surrendering of his seat after joining some other course which according to the respondent, is a manipulation by the petitioner. However, according to the petitioner, he has come from rural background and he is innocent of the alleged offences and also he sought for admission during 2012-13, and he once again appeared for the CET even by giving up his veterinary course which he had joined, after being allotted, as per merit for his ranking. Thereafter, he had been asked to produce the Transfer certificate, but the petitioner has produced the Transfer certificate of the PUC instead of Transfer certificate which ought to have been obtained from Veterinary college. Further, it appears, he has produced Migration certificate instead of Transfer certificate, which ought to have been obtained from the Veterinary college. According to the petitioner, on securing information that he has to produce the Transfer Certificate, from where the candidate has last studied, thereafter, he obtained it and he is ready to produce it on 9.8.2012.

The stand of respondent No. 1 is that since the petitioner has not produced the Transfer Certificate from the college where he studied last, the seat has been allotted to some third person on merit and as such, the petitioner cannot claim that he was allotted a Medical seat. Further, the learned counsel for the respondent submits that the petition cannot be entertained as no seat is available much less the admission process has already been completed.

5. The contention of the first respondent-KEA is that the petitioner had not surrendered the Civil Engineering seat in favour of the first respondent-KEA, which was allotted to him and also he has not intimated the KEA regarding surrendering of the seat immediately after joining the veterinary course. As such, criminal proceedings has been initiated against the petitioner stating that the petitioner, with a malafide intention, has not surrendered the seat and to have unlawful gain and further, the petitioner cannot be accommodated to the medical course for which he was selected. Since, he did not produce the Transfer Certificate from the college where he last studied and he has produced only the II PUC migration certificate which he had already produced before the Veterinary college. Because of the delay on his part, he is not entitled for the benefit of admission for the seat to which he was allotted. For non-compliance, the seat which was allotted to the petitioner has been allotted to some other candidate

and as such, no seat is available.

6. The petitioner has come up before this court on 21.8.2012, and on 17.9.2012 the standing counsel for the KEA Sri N.K. Ramesh was ordered to take notice. The last date for completion of CET process is on 28.9.2012. It appears, in the first round he was allotted seat on 23.7.2012. In the second round, his name was not found, which was announced on 31.7.2012 as per Annexure-G. As per Annexure-G he also opted for the second round. When the seat allotted in the first round appears to have been retained by him, the choice of the petitioner in the second round does not find place. If any fresh option is not allotted, then the seat allotted in the first round shall remain in favour of the candidate. When that being the case, the first choice should have been made available to the petitioner as nothing has been stated in the second round for and it was also not indicated what is the last date within which he has to make payment. In between, it also transpires that the petitioner has produced the II PUC Transfer Certificate instead of producing the Transfer Certificate issued by the Veterinary college, Bangalore where he was last admitted by producing the earlier allotment. It appears, for technical reasons the seat allotted by the first respondent to the petitioner has been cancelled and it was not available for him to avail the second choice. In that view of the matter, obtaining Transfer certificate from the institution where he has studied is only a formality. The CET ought to have checked before allotment of the seat which was given to the petitioner in the first round, he has whether given his choice in the second round. However, on the technical ground, his choice has been allotted to some other person. In the mean while, he has produced the Transfer Certificate obtained from the II PUC college and the college where he last studied. Be that as it may, when he has bonafide records to show that he has passed the examination in the II PUC and in the previous year of selection he was selected through the CET to Civil Engineering and thereafter, he opted the Veterinary Course and by oversight he could not intimate the same to the first respondent-KEA, the fact remains that since he was admitted to the Veterinary course, except that he did not intimate first respondent with regard to the admission being taken, there is no illegality, it may be irregularity as such. In that view of the matter, it is for the first respondent authority to make a seat available from out of the seats which are left out since the seat already allotted to the petitioner, has been allotted to another candidate.

Accordingly, the Writ Petition is allowed in part. The ignorance of the petitioner in neither intimating nor surrendering of seat, is not a case for initiating criminal proceedings against him. Hence, the action of the respondent is totally uncalled for. The respondent-KEA is directed to accommodate medical seat to the petitioner within 15 days from the date of receipt of this order. It is for the first respondent to see that the seat is allotted to the petitioner forthwith for the academic year 2012-13, though not in the very same college, elsewhere in the State.