
(1985) 07 KAR CK 0037
In the Karnataka High Court
Case No : Writ Petition No. 15923 of 1984

Girija Sheshu

APPELLANT

Vs

Bangalore University

RESPONDENT

Date of Decision : 15-07-1985

Acts Referred:

M.A. M.Sc. Degree Courses Regulations — Regulation 2

Citation : (1986) ILR (Kar) 3276

Hon'ble Judges : Chandrakantaraj Urs, J

Bench : Single Bench

Advocate : K.S Manjunath, for the Appellant; N.B. Bhat, for the Respondent

Judgement

Chandrakantaraj Urs, J.—Petitioner Girija Seshu applied to the Bangalore University - respondent-1 herein - claiming admission to Master's Degree Course in Music leading to a Degree of Master of Arts. That was in the academic year 1983-84. With reference to that application of hers, by an endorsement dated 2-9-1983 she was informed by the Head of the Department of Dance, Drama and Music of respondent-1 University that she should appear before him at 11 a. m. on 13-9-1983 with all the original documents. That she so appeared is not in dispute at all. After that interview, she was admitted to the course provisionally. That is also not in dispute. It was only on 17-5-84 at the end of the academic year 1983-84 she was informed that she must be discharged from the Department because she had not secured the required percentage of marks at degree level. Soon thereafter, the petitioner made a representation dated 21-5-1984 setting out in detail her claims to have been properly admitted. Such a representation was also made to the Vice-Chancellor in July 1984. These are all duly evidenced by the true copies of those correspondences and memos which are annexed to the Petition. She also brought to the notice of the University the special training she had undergone under various Vidwans in Music. Despite all these, her provisional admission came to be cancelled by an order dated 10-9-1984 by which the Principal of the College where she has studied-

respondent-3 herein-was informed that her admission was cancelled and she should be discharged from the Department. Aggrieved by the same, she has approached this Court and obtained interim direction to prosecute her studies further and also appear at the examination held at the end of two years course.

2. The matter has remained without being heard despite issue of rule nisi on 5 10-1984. The reasons for not disposing it of earlier need not be of serious concern to us.

3. Respondent-1, i.e. University of Bangalore, respondent-2 Controller of Examinations and respondent-3 the Principal of Central College are all served and the University is represented by Counsel. Learned Counsel for the petitioner and Counsel for respondent-1 have been heard. No statement of objections as such has been formally filed by the respondent-University.

4. The University rests its case entirely on the interpretation of the Regulations governing M. A./M. Sc., Degree Courses (1979 Scheme) made by the University. Similarly, Counsel for the petitioner also rests his case entirely on the same Regulations, but on the one which, according to him, is attracted to the petitioner's case. Regulations in question for that purpose are set out below :

"2. (a)(i) A candidate who has passed B. A./B.Sc., examinations of this University or any other University recognised as equivalent thereto shall be eligible for admission to the course, provided he/she has secured at least 40 per cent of the marks in the aggregate of the optional subjects and at least 50 per cent of the marks in the concerned subject, of all the University examinations of the course. In the case of S.C./S.T. students, the minimum per centage of marks required shall be less by 5 per cent.

In the case of blind students, the minimum percentage of marks required shall be less by 5 per cent.

(ii) In the case of such other courses for which there is no cognate subject at the degree level, the marks secured in the optional subjects only will be taken into consideration for purpose of admission.

(iii) A candidate who has passed Public Administration as an optional subject of study in B A. course is also eligible for admission to Master's Degree course in Political Science.

(iv) For admission to the Master's degree course in Social Work, a candidate who has passed B. A., degree examination with any one of the optional subjects of study, namely, Sociology, Psychology, Anthropology or graduates in Law are eligible.

Any graduate with 3 years of service of practical experience in the field of Social Work in recognised institution is also eligible for admission to M.S.W.

2. (b) A candidate who has passed B.A./B.Sc./B.Com., examinations of Bangalore University or of any other recognised University securing not less than

55 per cent of marks in the language concerned under Part I shall be eligible for admission to the Master's Degree Courses in that language. In the case of S.C./S.T, students the minimum percentage of marks required shall be less by 5 per cent.

In the case of blind students the minimum percentage of marks required shall be less by 5 per cent.

(c) Candidates who have obtained a Bachelor's Degree, i.e., B.A./B.Sc, B.COM. and who have passed other examinations as noted below shall be eligible for admission to Master's degree courses as follows :

(i) Those who have passed the Sahitya examination for M.A. in Sanskrit.

(ii) Those who have passed Kannada Ratna or Pandit examination for M.A. in Kannada.

(iii) Those who have passed Rashtrabasha Visharada Examination of Dakshinabharatha Hindi Prachar Sabha or any other examination considered as equivalent thereto for M.A. in Hindi.

(iv) Those who have passed Senior Grade Examination in Music conducted by the Government of Karnataka or any other examination considered as equivalent thereto shall be eligible for admission to M.A. in Music."

5. The argument for the University is that there has been cancellation of the petitioner's admission given to the petitioner on account of the petitioner not having secured 40% of the marks in the aggregate of the optional subjects and at least 50% of the marks in the concerned subject as indicated in Clause (a) of Regulation 2 of the Regulations. The import of the argument is that the requirement of 40% of the marks in the aggregate of the optional subjects which in the case of the petitioner happen to be History, Economics and Sociology, would not entitle her to take up Master's Degree Course in any subject which the University offers. Admittedly, the petitioner secured in History, Economics and Sociology which were her optional subjects in the B.A. Degree Course less than 40% in the three years added together. In fact, except in the final year, she does not appear to have scored more than 40% in any of the subjects. It is therefore contended by the University that the admission of the petitioner has been cancelled not on account of her lacking eligibility of having obtained a graduation degree in any examination, but on account of the lack of initial eligibility in not securing 40 % of the marks in the aggregate of the optional subjects provided clearly in Clause (a) of Regulation 2 of the Regulations.

6. On the other hand, it is contended by Sri K.S. Manjunath, Learned Counsel for the petitioner, that such a construction is totally unwarranted as the application of the rigour of Clause (a) of Regulation 2 does not arise in the case of the petitioner who is exclusively covered by Clause (c) of the same Regulation 2 of the Regulations. In other words, the impact of the argument is that the three clauses contained in the Regulations extracted above must be read as mutually

exclusive and collectively exhaustive. What is excluded by attraction of the other should not be made applicable.

7. Before examining the rival contentions, one must be fair to refer that the University has made indirectly a concession. But for Clause (a), the petitioner is otherwise qualified and eligible to take the Master's Degree Course in Music.

8. Now to the rival contentions. As can be seen from the arrangement of the Regulations in Clauses (a), (b) and (c), there is definitely a scheme of exclusion. A careful reading of Clause (a) leaves no doubt in the mind of the Court that the course is available to graduates in Arts and Science of the Bangalore University or other degrees in Arts and Science recognised as equivalent thereto subject to the proviso that the candidate has secured at least 40 % of the marks in the aggregate in the optional subjects and at least 50 % of the marks in the concerned subject. The key is employment of the expression "concerned subject". "Concerned subject" must necessarily be related to a subject which the candidate wants to offer himself/herself as a candidate in Master's Degree Course. In other words, the concerned subject must be one of those which is offered for Master's Degree course by the University. Thus, for example, if a candidate passed B. A., of some Indian University with Philosophy, Political Theory and Psychology as the optional subjects and desires to prosecute his/her studies at the Bangalore University in Philosophy, then the rigour of the rule will be that in the said three subjects, he/she must have passed in the Degree examination with an average of 40% and above and must have secured 50% in Philosophy. Even if he/she has secured 50% in Political Theory, but less than 50% in Philosophy, he/she will not be entitled to offer Philosophy as her subject. Similarly, Sub-clauses (ii), (iii) and (iv) are entirely concerned with the scheme underlined and provisions made in Clause(a) of Regulation 2 of the Regulations. To illustrate, Sub-clause (iv) provides for admission to a Master's Degree Course in Social Work which apparently is not a subject offered for the Degree Course in the Bangalore University. Therefore, the optional subjects referred to in the main body of Clause (a), as pointed out, Sociology, Psychology, Anthropology or Graduates in Law are made eligible. If that is so, the argument advanced for the University stands exposed as not workable as it is common knowledge that a Law Degree does not give room for study of optional subjects as all subjects in the Law course are compulsory. Therefore, Clause(a) should be read directly in its general terms as providing for a graduate in optional subjects seeking Master's Degree Course in the University in one of those optional subjects subject to the exception created in the sub-clause. Any other construction would result in disastrous chaos.

9. Regulation 2(b) is very clear. It deals with languages. Question of optional subjects and aggregate marks of 40% does not arise. All that is required is that the candidate should have passed B. A., B.Sc., or B.Com., of Bangalore University or any recognised University, but not secured less than 50% of the marks in the language concerned. Again the expression used "language

concerned" denotes the language offered for the M A., course and no other. If 40% aggregate requirement of Clause (a) is totally absent in Clause (b), then how it is possible for the Court to construe that Clause (a) must be applied universally to all the clauses in Regulation 2 is beyond my comprehension.

10. Then coming to Clause(c), it is seen that the requisite eligibility is holding of a degree in B.A., B.Sc., or B.Com., and includes those who in addition to such degrees have passed other examinations noticed in the sub-clauses and they are made eligible to the courses which are also mentioned in the sub-clauses. We are concerned with Sub-clause (iv) which speaks of examination in music and therefore the Master's Degree Course in Music. The petitioner has pleaded that she has passed the Music examination known as "Sangeetha Vidwan Title" examination conducted by the Government of Tamilnadu which is stated to be equivalent to Senior Grade Examination in Music conducted by the Government of Karnataka. If that is so, notwithstanding that the petitioner does not have 40% in the aggregate in the optional subjects of History, Economics and Sociology which she offered for obtaining B.A., Degree, she is made eligible independently under Sub-clause (iv) of Clause (c) of Regulation 2 without attracting the bar that is created for those candidates who offer to take Master's Degree Course in one of the optional subjects only.

11. In the view I have taken in analysing and construing the said Regulation 2, the University was clearly in error and in excess of its jurisdiction in finding that the petitioner lacked eligibility as indicated in their communication of 1984 at Annexure-F as well as its confirmation by further cancellation as per Annexure-I to the Petition.

12. In the result, those two annexures are liable to be quashed as being erroneous and on a misunderstanding and misreading of the Regulations and therefore without jurisdiction. But, I make it clear that quashing is with reference to the petitioner only and does not affect others mentioned in Annexure-F who are not before the Court.

13. In the circumstances of the case, the University is liable for costs. The petitioner has been made to suffer some degree of agony for a considerable period. Advocate's fee Rs. 200/-.

14. This matter has been disposed of when it has come up for orders by express understanding on the earlier date that it should be so disposed of.