

(1996) 01 KAR CK 0065

In the Karnataka High Court

Case No : WP. No"s. 4068-A to 4068-H of 1995

Hasanamba Education Trust (R)

APPELLANT

Vs

Mysore University

RESPONDENT

Date of Decision : 24-01-1996

Acts Referred:

Citation : (1996) ILR (Kar) 1834 : (1996) 5 KarLJ 728

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

Bench : Single Bench

Advocate : M. Shivappa, for the Appellant; V.C. Brahmarayappa, for R-1 and N.B. Vishwanath, HCGP for R-2, for the Respondent

Judgement

M.F. Saldanha, J.—Heard the petitioner"s learned advocate.

2. This Writ Petition has been preferred by the Management and is directed against a decision of the Mysore University, refusing to recognise the admissions of 8 students of the petitioner-College, in respect of the B.Ed Course for the academic year 1994-95.

3. In the first instance, I have pointed out to the petitioner"s learned advocate that it is not permissible for one Writ Petition to have been presented on behalf of the eight petitioners, each of whose cases require individual consideration. The office shall, therefore, re-number this Writ Petition as Writ Petition No. 4068-A/1995 and shall issue separate numbers in respect of the remaining seven petitioners, ending with W.P.No. 4068-H/1995. The Petitioner"s learned advocate shall tender to the office the deficit Court fee in respect of the balance seven petitioners, within a period of two weeks from today, failing which, the certified copy of the orders passed in this petition shall not be issued by the office.

4. The point involved in these petitions is one of serious consequence and of very far reaching repercussions. The facts are extremely simple, in so far as the University has prescribed under its regulations that the minimum qualifying marks for admission to the B.Ed Course will be 45% and the regulations further

prescribe that if the students are in-service candidates, that they shall be entitled to weightage of one mark for each completed year of service with a maximum of 5. In other words, therefore, the maximum weightage that can be added is five marks, provided the teacher has that many years of service, but in any event, the correct minimum number of marks must be 45%, failing which the candidate is not eligible for admission to the B.Ed Course. The petitioners before me are in-service candidates and had experience ranging from 1 - 4 years at the relevant time.

5. It is the University's case that despite giving the due weightage, that these eight petitioners are below 45%, it does not matter whether it is by one mark or more and that consequently, they were not eligible for admission and therefore, the University has refused to approve their admission.

6. Under the interim orders of this Court, the petitioners have been permitted to appear for their examinations, but the results have been with-held. The case made out by the petitioners is that, the State of Karnataka has issued certain instructions, which are contained in a circular letter dated 3.4.1991, which is at Annexure "C" to the petition. This circular letter has been issued by the Under Secretary to Government of the Education Department and inter-alia. It provides that as far as in-service candidates are concerned, they shall be given upto 5 mark weight ages, but in sum and substance what it provides for is that the minimum requirement prescribed by the University does not have to be adhered to. In effect, this circular virtually nullifies the University regulations providing for the minimum requirements for admission to this Course. The college management contends on behalf of the petitioners that as far as this document is concerned, that it has emanated from the State Government and that, therefore, they were justified in following these directions while making admissions and that it was their understanding that the special provision made by the Government for in-service candidates watered down the University regulations. They, therefore submit that the petitioners, having completed the course and the examinations that, even if for any reason, they were wrong in their understanding, that this batch of petitioners should not be made to suffer because of this situation.

7. The grant of any final relief has been vehemently opposed to by the learned Counsel who represents the University. He has submitted that the University is an autonomous body and that the regulations framed by the University are essentially in order to maintain certain standards as far as the educational process is concerned. He also submits that the State Government has no power whatsoever to issue any directions that are contrary to these regulations and even if such directions are issued, that the University is not obliged in the least in taking any cognisance of such conflicting directions. He submits that the University regulations are all that matters and since he has demonstrated to the Court that even after giving the weight ages as prescribed by the University regulations, the eight petitioners were not eligible for admission, that this

decision must stand.

8. I need to add here that the petitioner's learned advocate had produced the records pertaining to the previous year and he submits that it was not for the first time that the college, has followed the Government circular and he points out that as far as the previous year is concerned also, that there were some cases in which the students' admission was approved of by virtue of the provisions of the circular, even though they had got less than 45% marks as a corrected total. He, therefore, submits that the University, having accepted this position in the previous year, is estopped from raising any objections as far as the present year is concerned.

9. In fairness to the learned Counsel who represents the University, I need to record that he has pointed out that this list has been produced in the Court for the first time and that he has not had the opportunity of checking up with the authorities with regard to these facts. Regardless of that, he has submitted that the position in law is very clear in so far as even approved of in the past year, that there can be no estoppel pleaded on that basis, because there is every possibility that the correct position did not come to the notice of the University authorities earlier. He, therefore, submits that even if the facts, as pointed out by the petitioner's learned advocate are correct regarding last year, that there is no ground on which a wrong precedent can be continued indefinitely.

10. On a consideration of this aspect of this case, I have no hesitation in upholding these submissions canvassed on behalf of the University. This Court has come across numerous instances where all sorts of half-baked decisions are taken by the State Government in matters relating to education and the havoc that is today witnessed in the educational field is attributable mainly to this sort of political decisions. The present instance is one more of such precedents. The Universities are autonomous bodies and they are statutorily empowered to prescribe the minimum qualifying standards and when those standards are prescribed, the regulations embodying those requirements shall be upheld at all cost by the Courts and it is necessary to clarify for the benefit of the colleges and other sub-ordinate authorities that it is these regulations alone that shall prevail. Any rule, order, direction etc. issued by the State Government that is in conflict with the University regulations will be rendered non est in law and will, therefore, have to be disregarded totally and completely. To this extent, therefore, as far as Annexure "C" is concerned, it will be necessary for this Court to hold that it is bad in law, that it ought not to have been issued, as the directions contained therein are without jurisdictions contained therein are without jurisdiction and that therefore, this particular circular letter of the Government will have to be hereinafter ignored totally and completely. It is necessary for this Court to issue these directions which the learned advocate shall convey to the Secretary, Department of Education, Government of Karnataka so that special care shall be taken to ensure that in all matters relating to education, the State Government does not issue any directions or orders that are in conflict with the existing

regulations framed by the Universities.

11. It is precisely this anomalous situation that has led to the problems that have ultimately culminated in the filing of the present Writ Petition. Though the directions contained in the document dated 3.4.1991 are of no legal consequence and the respondent's learned Counsel is justified in submitting that this will have to be totally ignored, the fact remains that these directions have emanated from no less an authority than an Under Secretary of the Education Department, State of Karnataka. That officers at this level should have known better issuing this sort of directions and circulars is necessary to be reiterated by this Court, but the consequences of such a circular having been issued is that the sub-ordinate authorities such as the Principals of the various institutions could easily have been misled by the issuance of this circular. In the present case, that is precisely what has been pleaded and to this extent, therefore, it would be difficult for this Court, as far as the past years are concerned, to penalise either the institutions or the students in the light of this particular document.

12. Under these circumstances, as often happen, in the interest of the students who have appeared and in the special facts of this case, the Court will have to once again make a concession while taking cognisance of the fact that the students have completed the course and appeared for the examinations. To that extent, therefore, the respondents will have to declare the results of the eight petitioners and if they have successfully completed the course, they will have to be conferred with the degrees in question.

13. As far as this last relief is concerned, the University's Counsel has vehemently opposed the grant of relief, because, he has submitted that it would virtually amount to a contradiction, in so far as once this Court has upheld the University regulations, that there can be no question of the grant of any relief under normal circumstances. This argument would have been perfectly valid and would have been upheld, but this Court needs to take cognisance of the special circumstances of the case, namely, the fact that the petitioners have acted on the basis of instructions that have emanated from no less an authority than the Under Secretary of the State Government and if they have mistakenly done so, it would be unfair and unjust to penalise them, only because of that situation, That is the solitary ground on which this Court has made the aforesaid concession.

14. To this extent, therefore the petitioners technically succeed in so far as the respondents are directed to give effect to the directions issued in this judgment, within an outer limit of one month from the date of receipt of the copy of this judgment. This pre-supposes the fact that the respondents shall apply for the same immediately. The office shall expedite the delivery of the certified copy.

The Writ Petition stands disposed of. No order as to costs.

Learned Government Advocate is permitted to file his memo of appearance within three weeks.