
(2014) 05 KAR CK 0020

In the Karnataka High Court

Case No : Writ Petition No. 12486 of 2014 (EDN-EX)

H.S. Ashwini

APPELLANT

Vs

Pre-University Education

RESPONDENT

Date of Decision : 20-05-2014

Acts Referred:

Citation : (2014) ILR 3416 : (2014) 4 KarLJ 509 : (2014) 3 KCCR 2566

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : B. Pramod, Advocate for the Appellant; Prathima Honnapur, Government Pleader for Respondent No. 1 and Shri. S. Sriranga, Advocate for M/s. Just Law for Respondent No. 2, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Anand Byrareddy, J.—The facts of the case are that the petitioner is said to have completed her 10th Standard in ICSE, in the year 2012, with an "A" Grade. She had been admitted to the Second respondent college to the Pre-University Course with the combination of History, Economics, Psychology & Sociology. She has completed the I Year PUC exams, but it transpires that she has not been issued the marks card.

2. The petitioner is said to have paid the fee for the II Year PUC. She is said to have attended classes, but would also state that she had also missed classes on account of the fact that she was suffering from, what was diagnosed as "classic migraine".

The petitioner had written a mock test on 8.3.2014, conducted by the College. It is stated that the first respondent had issued a notification dated 10.10.2013 declaring the commencement of the II Year PUC exams as on 14.3.2014. The petitioner had then approached the second respondent for her Hall Ticket as on 7.3.2014. But she is said to have been told to come on a later date. Again on 10.3.2014 and 11.3.2014 when she desperately sought to obtain the Hall Ticket,

with the assistance of her father, she was informed that her Hall Ticket had been cancelled and that her name had been deleted from the system.

It is in this background that the petitioner has approached this Court, alleging arbitrary and unreasonable action on the part of the respondents. By an interim order dated 13.3.2014, the respondents were directed to permit the petitioner to take the II Year PUC exams.

3. The petitioner has also filed an application seeking to amend the petition to challenge the reasonableness of Rule 12 of The Karnataka Pre-University (Academic, Registration, Administration and Grant-in-aid etc.,) Rules 2006 (Hereinafter referred to as "the 2006 Rules", for brevity), as it does not provide for any relaxation or condonation of absence, more particularly in case of medical reasons or for reasons beyond the control of the student preventing him from attending the requisite number of periods in the subjects during the academic year.

4. The petition is resisted by the respondent No. 2. It is contended that the petitioner is not entitled to the relief claimed as the same, if granted, would run counter to Rule 12 of the 2006 Rules. It is pointed out that it is clearly stipulated in the Application Form for admission itself that an attendance of 75% in each subject is a mandatory requirement to be permitted to take the PUC examination. The petitioner is fully aware of this pre-condition. Admittedly, the petitioner had not attended classes regularly. Her attendance for the academic year 2013-14 was a dismal 40%. It is stated that she had also failed to attend tests conducted by the College from time to time. She had failed to take the mid-term examination and that she had also failed to appear for the preparatory examination. The college had regularly intimated the parents of the petitioner about her non-attendance on a daily basis via messages on their cell phones. It is stated that the parents of the petitioner were also nonchalant about the tardy attendance and truancy of the petitioner. And that they religiously avoided attending the Parents - Teachers meetings that were regularly arranged to address issues such as conduct and discipline and performance of students. It is stated that the students were notified in their Mid-term examination marks cards itself that a student with less than 75 % attendance in each subject would not be permitted to take the final examination.

It is stated that the petitioner had not produced any Medical Certificate to establish that she was unable to attend classes on account of any illness. Nor had the petitioner furnished any other acceptable reason for her lack of attendance. It is in that background that the College was constrained to return the Hall Ticket of the petitioner to the Pre-University Board, as she had a shortage of attendance. It is stated that the said respondent was required by the Board to prepare a list of students who lacked the requisite percentage of attendance and that the petitioner was one of the students whose name found place in such a list.

It is therefore contended that the petition lacks merit and is liable to be dismissed in limine.

5. The State Government has filed statement of objections to reiterate the above circumstances which disentitled the petitioner to take the II Year PUC examination. Reliance is also placed on a decision of this court in a similar case, namely W.P. 7204/2008 decided on 22.5.2008, expressing the following opinion:

4. Any kind of a casual attitude on the part of the students resulting in shortage of attendance cannot be countenanced and in my opinion, it would not be proper for this Court to encourage such tendencies on the part of students on grounds of sympathy. Students pursuing Pre-University education are on the brink of their career and cannot afford to be casual or negligent in attending to their studies. It is hoped that, the dismissal of this writ petition would make the petitioner conscious of his ineligibility to appear in the ensuing examination and take care to ensure that he would not have to once again suffer on account of this reason in this education.

It is hence contended that the present petition be dismissed. The petitioner has produced certain medical prescriptions pertaining to the year 2011. Other documents provided by her indicate that the petitioner had suffered from fever, nausea and loose motions, for some days.

6. This bench was inclined to examine Rule 12 of the 2006 Rules for unreasonableness. The Rule certainly does not provide for addressing borderline cases where a student is prevented from complying with the requirement of attendance down to the last prescribed percentile. There is no mechanism in place to address circumstances where the student is unable to achieve the requisite percentage of attendance on account of illness or other circumstances beyond the control of the student. Since it cannot also be readily accepted that the prescription is only of a minimum of 75% and not 100% and therefore every exigency, whether medical or otherwise are deemed to be reckoned while framing the Rule. It would also be unjust and unreasonable if the students who lack such attendance are not being provided an avenue to make up such attendance by recourse to special classes or by resorting to such other measure to ensure their eligibility to take the examination on a par with students who may have the requisite attendance but are possibly miserable failures at the examination. In none of the decisions cited at the Bar did the Courts seem to address the issue from the above perspective. But unfortunately on a closer examination of the facts in the case on hand, it is found that the petitioner has miserably failed to substantiate her case that she was unable to attend classes on account any chronic and serious illness. The documents produced by her do not support any such case. The shortage of attendance is chronic and in the absence of material documents to support the case of the petitioner, of suffering from any illness and which is put forth for the first time in the writ petition, it cannot be said that this is a deserving case which would warrant the impugned Rule to be tested for reasonableness.

In the result, the petition fails and is dismissed. The petitioner will not therefore, derive any benefit from the interim order of this court in the first instance, whereby she was permitted to take the II Year PUC Examination for the academic year 2013-14.