
(2014) 03 KL CK 0148

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 6811 of 2014

Jamshid Jamal K.J.

APPELLANT

Vs

General Education Department

RESPONDENT

Date of Decision : 11-03-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 2 KHC 736

Hon'ble Judges : C.K. Abdul Rehim, J

Bench : Single Bench

Advocate : A.G. Basil, Advocate for the Appellant; Lowsy A., Government Pleader, Advocate for the Respondent

Judgement

C.K. Abdul Rehim, J.—Challenge in this writ petition is against Ext. P3 order issued by the Government modifying the system of granting grace mark to Higher Secondary Course. The petitioner is a student of the 6th respondent School in Plus-II Standard. He had participated in the 54th Kerala School Kalolsavam 2013-14 and was granted "A" Grade in "Natakam" (Drama) as evident from Ext. P1 certificate. It is stated that, as per the policy existed, those students who obtained "A" Grade in the Kalolsavam are entitled for 5% grace mark added to the total marks obtained in the final year Higher Secondary School examination. By virtue of the impugned order of the Government, an upper ceiling was introduced to the effect that the total marks obtained by way of adding the grace mark shall not exceed 90%. The reasoning given in Ext. P3 is that, the Government have received a report from the Director of Public Instructions to the effect that the students who are participating in extra curricular activities are getting higher score than those students who keep academic excellence. In that manner the students who are getting higher marks through allotment of the grace mark is given preference in the matter of admission for higher studies. It is also pointed out that a tendency is being developed with respect to students studying in Plus-I and Plus-II to participate in the extra curricular activities only with an intention of getting grace mark.

Further it is observed that, in the matter of admission for higher studies weightage is being granted for extra curricular activities and therefore by providing grace marks double benefit is being granted to students who are participating in extra curricular activities. Contention of the petitioner is that, even though the impugned decision is one coming within the realm of the policy decision of the Government, it was totally illegal and unjustifiable for the Government to introduce the same during the midst of the academic year, without notice to the student community. By the impugned order, reasonable expectation of the students who had participated in the youth festival and conferred with merit, with respect to getting grace marks, is declined. Therefore it is contended that the rule of estoppel will become applicable with respect to the matter and the decision suffers from lack of reasonableness. The petitioner points out that the provisions contained in Rule 10 of Chapter VII of KER provides for promotion of extra curricular activities as part of education imparted in the schools. The said provision has recognised "Drama" as one of such extra curricular activities in which the petitioner has secured "A" grade. Therefore the impugned decision even violates the statutory intent and policy, is the contention.

2. While considering the issue, this Court takes note of the fact that the Government have introduced grace mark for excellence in extra curricular activities. By virtue of a policy decision taken in exercise of its wisdom the Government now felt that it is necessary to introduce certain changes with respect to granting of grace mark and it is necessary to introduce an outer limit with respect to the total marks to be awarded. Such a decision is taken as a policy matter by the Government, considering various aspects of the issue. The impugned order is supported by justifiable reasoning mentioned therein, as to why introduction of an outer limit of the total marks was necessitated. This Court finds no materials available to hold that the decision was not supported by reasons or it is in any manner arbitrary. Contention of the petitioner that such a change could not be introduced during the midst of an academic year cannot be accepted, because participation in extra curricular activities by the students cannot be considered as one induced through declaration of grace marks. On the other hand, participation in the competitions held at State level with respect to extra curricular activities should be one intended to promote the talent and skill of the students in such activities and it should be aimed on promotion of cultural activities among the students and in the community at large. Learned counsel for the petitioner contended that the impugned order had resulted in a change of the rule of the game in the midway of the process. At any rate the introduction of a cut off mark in the matter of awarding of grace mark cannot be considered as a change of the rule of game with respect to conduct of the youth festivals. No principle of estoppel can be attracted with respect to the policy decision impugned, because the petitioner cannot contend that he was induced to join in the Higher Secondary Course on the basis that he will be awarded any particular score as grace mark on attaining "A" Grade in the State level youth festival.

3. Learned counsel for the petitioner pointed out that, legality of any policy

decision can be interfered by the Court in exercise of power vested under Article 226 of the Constitution of India. In support he had placed reliance on a decision of the Hon''ble Supreme Court in Centre for Public Interest Litigation and Others Vs. Union of India (UOI) and Others, . It is held by the Apex Court that, when it is clearly demonstrated that the policy framed by the State or its implementation is contrary to public interest or it is violative of the Constitutional principles, it is the duty of the Court to exercise its jurisdiction in larger public interest and to reject the stock plea that the scope of judicial review should not exceed beyond the recognised parameters. In such case it is the duty of the Court to exercise its power in larger public interest and to ensure institutional integrity is not compromised by those in whom the people have reposed trust and who have taken oath to discharge duties in accordance with the Constitution. But in the case at hand this Court is not at all convinced that the impugned policy is in any manner contrary to public interest or it is violative of any Constitutional principles. As already observed this Court do not even find the policy decision in any manner unreasonable or arbitrary. Hence, challenge against the impugned order deserves no merit. Accordingly the writ petition fails and the same is hereby dismissed.