
(1995) 11 KAR CK 0034

In the Karnataka High Court

Case No : Writ Petition No's. 22439 and 22440 of 1995 Etc.

Jogy Augustine

APPELLANT

Vs

Bangalore University

RESPONDENT

Date of Decision : 24-11-1995

Acts Referred:

Bangalore University Regulations Relating to Admissions — Regulation 1, 2
Karnataka State Universities Act, 1976 — Section 39

Citation : (1996) ILR (Kar) 389 : (1995) 6 KarLJ 662

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : V. Mohan Rangam, for the Appellant; N.K. Patil, for R-1, for the Respondent

Final Decision : Dismissed

Judgement

Bharuka, J.—The only Question that falls for Consideration in these Writ Petitions is as to whether the Vocational Higher Secondary Examination of 10+2 pattern conducted by the Government of Kerala (hereinafter referred to as the Vocational Examination) can be treated as equivalent to 2-year Pre-University Examination so as to make the candidate/s eligible for seeking admission to B.Sc. (Nursing) (Basic Degree) course conducted by the Bangalore University.

2. According to the petitioners, after having passed the vocational examination they joined B.Sc. (Nursing) Basic Degree which is of 4 year duration in P.C.College of Nursing, Bangalore (Respondent No. 4 in WP 35139-40/95) But the respondent University under its letter dated 3.8.1995 had disputed their admission and accordingly the Principal of the PC Nursing College under his communication dated 1.9.1995 in No. PCNC/115/95-96 (Annexure-E to WP No. 35139-40/ 1995) has relieved the Petitioners from the course in question. The reason for taking the said action is that the petitioners have not passed the qualifying examination prescribed by the University under its Regulations. Being aggrieved by the said act of the University, petitioners have filed the present Writ

Petitions.

3. Sri Mohan Rangam, learned Counsel appearing for the petitioners submitted that since the Vocational Course has been treated as equivalent to Pre-University Examination by various Universities, like the Mangalore University, Annamalai University, Anna University, Kerala University, Gandhiji University and University of Calicut, therefore, it is incumbent upon the Bangalore University as well to declare the said course to be equivalent to Pre-University Examination; and, since the respondent -University has failed to take a decision in this regard this Court should declare it to be so or issue appropriate Writ or direction compelling the University to take a decision in this regard in conformity with the decision taken by other Universities referred to above.

4. Section 39 of the Karnataka State Universities Act, 1976 (hereinafter referred to as "the Act") provides for framing of Regulations and reads as under:

"39. Regulations.- (1) The Academic Council may, subject to the approval of the Chancellor sought and obtained through the. State Government make Regulations consistent with this Act, the Statutes and the Ordinances.

(2) The Regulations may provide for exercising all or any of the powers enumerated in Section 27 and particularly for the following matters, namely:-

(a) admission of students to the University;

(b) recognition of examinations and degrees of other Universities as equivalent to the examinations and degrees of the University;

(c) the University courses and examinations and conditions on which students of the University or the affiliated colleges or of other University Institutions shall be admitted to examinations or degrees, diplomas and certificates of the University;

(d) the granting exemptions.

3. Every Regulation shall come into force on the date it is approved by the Chancellor or on such other date as the Chancellor may direct. The Regulations shall also be published in the official Gazette."

5. Pursuant to the said powers the Academic Council has framed Regulations inter alia providing for conditions subject to which the candidates can be admitted to the Course in question.

6. Regulations 1 and 2 provide for admission requirements and read as under:

"The candidate seeking admission must;

1. have passed the two year Pre-University examination or equivalent as recognised by Bangalore University with Science subjects viz. Physics, Chemistry and Biology.

2. have obtained at least forty-five percent of the total marks in Science subjects

of the qualifying examination; if belonging to a Scheduled Caste or a Scheduled Tribe, have obtained forty percent of the total marks in Science subjects of the qualifying examinations."

7. Admittedly the Vocational Course has not been recognized by the respondent University as equivalent to two-year Pre - University Examination. Under the situation the question is - whether this Court can either declare the desired equivalence or compel the University to take a decision favourable to the petitioners in this regard. The answer to the question need not detain me for a long since it has already been answered by the Supreme Court in unambiguous terms in the case of *Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another*, . Faced with a similar question as at hand in paragraph No. 6 of the Judgment it has been held by the Apex Court that:

"In the first place it may be noted that what the condition of eligibility laid down by the Karnataka University requires is that the students seeking admission should have passed the two-year Pre-University Examination of the Pre-University Education Board, Bangalore or an examination held by any other Board or University recognized as equivalent to it. The examination held by any other Board or University which has been passed by the candidate must be recognised by the Karnataka University as equivalent to the two year Pre-University Examination of the Pre-University Education Board, Bangalore. The equivalence had to be decided by the Karnataka University and it is not a matter of objective assessment or evaluation by the Court. It is for each University to decide the question of equivalence of an examination held by any other Board or University with the examination which primarily constitutes the basis of eligibility."

8. Again while dealing with the contentions of the appellants that the action of the University in not recognizing the Higher Secondary Examination held by the Secondary Education Board, Rajasthan as equivalent to Pre-University Examination, is arbitrary and unreasonable, the Apex Court in paragraph-7 of the Judgment in *Rajendra Prasad Mathur* (supra) has held that -

"It is for each University to decide the question of equivalence and it would not be right for the Court to sit in judgment over the decision of the University because it is not a matter on which the Court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University. Here we find that no material has been placed before the Court on the basis of which the Court could say that the decision of the Karnataka University not to recognise the Higher Secondary Examination of the State of Rajasthan or the first year B.Sc. examination of the Universities of Rajasthan and Udaipur as equivalent to the Pre - University Education Board, Bangalore was arbitrary or not based on reasons. We must

therefore reject this contention urged on behalf of the appellants.

8a. In the present case the respondent University has taken a categorical stand that it does not recognise the vocational examination as equivalent to two-year Pre University Examination, and, therefore, the petitioners are not eligible for being admitted to the course in question.

9. Learned Counsel appearing for the University has also brought to my notice the Guidelines/Instructions for determination of eligibility for admission of students to various courses during the academic years in question. These Guidelines have been issued to the Principals of all affiliated Colleges of the respondent- University. In these Guidelines it has been specifically provided under the head "General" that:

"1. All the Vocational Examinations at +2 level or Diploma level conducted by other Universities/Boards are not recognized by this University for the purpose of admission to I Year Degree Courses under all faculties."

10. Despite the said unequivocal and unambiguous clarification/ warning to the Principals of all affiliated Colleges of the respondent-University, by obviously violating the Guidelines and in clear contravention of the Statutory Regulations the respondent-College has opted to grant admission to ineligible students on its own risk and peril. The University on having learnt about the illegality committed, has at its earliest, communicated about the illegality and refused to approve admission of the petitioners. In view of this discussion. I do not find any error in the impugned action of the University,

11. In the case of Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others, , dealing with the problem of illegal admissions by the Educational Institutions in para 5 of the Judgment it was clearly warned by the Apex Court that:

"5. We find that this situation has emboldened the erring authorities of educational institutions of various States to indulge in violating the norms of admission with impunity. They seem to feel that the Courts will leave the admissions intact, even if the admissions are granted contrary to the rules and regulations. This is a most un-satisfactory state of affairs. Laws are meant to be obeyed, not flouted. Some day, not distant, if admissions are quashed, for the reason that they were made wrongly, it will have to be directed that the names of the students who are wrongly admitted should be removed from the rolls of the Institution."

12. Despite the said warning held out by the Supreme Court more than a decade back and in complete violation of repeated specific instructions issued by the respondent-University, the institution like the respondent-College, as a matter of regular practice, has been giving admissions to ineligible candidates with all impunity. This is quite evident from the facts of the Writ Petitions 25373 to 25375 of 1994 and 9943 & 9944 of 1993. The respondent-College possibly felt

emboldened by the fact that on being approached in Writ Jurisdiction, this Court had been passing expert interim orders permitting such ineligible students to continue with their studies in the courses in question. I also find that to perpetuate such illegalities, legal notices (Annexure "G") also have been issued to the University authorities threatening them of legal actions in case they fail to approve of such illegal admissions.

13. In the case of A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another, , it has been held that -

"Sri Venugopal suggested that we might issue appropriate directions to the University to protect the interests of the students. We do not think that we can possibly accede to the request made by Sri Venugopal on behalf of the students. Any direction of the nature sought by Sri Venugopal would be in clear transgression of the provisions of the University Act and the Regulations of the University. We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the Court to disobey the laws."

14. In the case of Rajendra Prasad Mathur (supra) the Supreme Court having noticed sinful acts committed by such Institutions like the respondent-College has held that the University concerned should take appropriate action against such erring Institutions who are in the habit of admitting ineligible students. In my opinion, it is high time when the University Authorities should be alive and prompt in taking appropriate action against the respondent-College like cancellation of affiliation for which they are statutorily bound.

15. For the reasons stated above and with the observations made supra, there being no merit in these Writ Petitions, the same are dismissed.