

(1996) 03 KAR CK 0029
In the Karnataka High Court
Case No : Writ Petition No. 6842-63 of 1996

K. Basavaraja and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 18-03-1996

Acts Referred:

Citation : AIR 1996 Kar 392 : (1997) 1 KarLJ 98

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

Bench : Single Bench

Advocate : Madanmohan M. Khannur, for the Appellant; A.V. Srinivasa Reddy, A.G.A. and P.S. Malimath, for the Respondent

Judgement

1. These two writ petitions pertain to the students who have been admitted by the institution in excess of the prescribed quota. Various reasons have been given in the petition including the fact that there was a lot of pressure on admissions and statements have also been made by the principal in the correspondence that there was pressure from various public figures particularly political leaders and ministers. It may be true that as far as admissions to educational institutions are concerned that both individuals and authorities convey requests and even exert pressure on the authority which undoubtedly is not proper because it then becomes impossible for the head of the institution to strictly go by the merit criteria. The question arises as to whether even if that were to be the reason, it is permissible to condone breach of the regulations in question.

2. The petition has been opposed by the learned Govt. Advocate as also the learned advocate who represents the university. The common submission that is put forward by both of them is that the University Act very clearly specifies that any admissions made in excess of the prescribed quota cannot be approved of. They further submitted that as far as the aspect of condonation is concerned that this Court has already considered the law in detail and following the dictum laid down by the Supreme Court in several cases that this Court has clearly

prescribed that there can be no question of disregarding the provisions of the Universities Act as also the regulations which prescribe limitations on the approved admissions. This Court has also held that it is not permissible to issue any directions to any authority to do anything that is in breach of these requirements of law. It is in this background, that they submitted that irrespective of what the ground may be, that it is not permissible for this Court to grant any relief on the facts and circumstances of this case.

3. The petitioners learned advocate has advanced various submissions including the fact that the petitioners have undertaken not to admit any excess students in the subsequent years. He also submits that the student should not be made to suffer if the institution has exceeded its quota because they were unaware of this fact and the last argument advanced was that this Court had on earlier occasions in appropriate cases permitted the students to take their examinations and to even get their admissions regularised. Even in a few of the instances where such interim orders may have been passed, the question arises as to what were the circumstances under which those orders were passed. In different cases it was pointed out that at times the Govt. had not notified very clearly as to what the position was or that there has been a change in the regulations or with regard to orders passed by the Courts and that under these circumstances the institution could not really be faulted. None of these circumstances are present as far as this group of petitioners goes and under these circumstances there is just no possibility whatsoever of granting any relief. It is true that the Courts and the Govt. have tried to be helpful but the learned Govt. Advocate points out that this aspect of the matter has been totally and completely misunderstood and that a certain class of persons who run some of these institutions have assumed that no laws or regulations apply to them and that irrespective of what or how many times, they had breached the Rules that their applications will be condoned on the ground that the poor students are the sufferers. I do concede that as far as possible the attitude of the authorities and the Courts have been a helpful one but the learned Govt. Advocate submits that this attitude has been misunderstood and that attempts to breach the law and thereafter trade in the aspect of compassion and sympathy has become rampant and undue advantage is taken in all these cases. That is an aspect of the matter which does require consideration but the real issue is not that. It is really the question as to whether it is at all permissible to get over the regulations in question. Since the answer to that question is no, it is not possible to grant any reliefs as far as the present petitions go.

4. The petitioners' learned advocate submitted that in many cases, the intake capacity was been increased and consequently the infirmity in the way of the petitioners has been eliminated. He states that even as far as these cases go, that appropriate applications have been made to the Govt. for purposes of increasing the intake and thereby get the admissions regularised. The question of fixing the intake capacity of each of the institutions is done on the basis of an evaluation which the Govt. conducts and it is for those authorities to pass

appropriate orders in such cases. If the petitioners applications are pending with the authority, it is up to them to pass appropriate orders on those applications. That cannot be mixed up with the reliefs that are asked for in these petitions.

5. It is in this background that neither interim nor final relief can be granted and these petitions to stand disposed of Learned Govt. Advocate is permitted to file memo of appearance within 3 weeks. Learned advocate who represents the University is also permitted to file vakalat within 3 weeks.

6. Order accordingly.