

(1996) 07 KAR CK 0041

In the Karnataka High Court

Case No : Writ Petition Nos. 31375 of 1995 and 16896 of 1996

K. Ravikumar

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 31-07-1996

Acts Referred:

Karnataka State Universities Act, 1976 — Section 15(2)

Citation : (1997) 1 KarLJ 554

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

Judgement

1. The petitioner had obtained secured admission to B.D.S. Course in the 2nd respondent-College for the academic year 1995-1996 on the strength of acquiring B.Sc. qualification from the first respondent-Bangalore University. (Marks card of the II year B.Sc. degree examination has been placed at Annexure-B). After the 2nd respondent-College submitted the statements of admissions for approval to the University, at the time of scrutinising the marks cards of the petitioner for the purpose of finding out his academic eligibility to enter the B.D.S. Course, it transpired that the marks card of II year B.Sc. examination submitted by the petitioner (Annexure-R-2) had been tampered with. Accordingly, the University prevented the petitioner from taking the 1st year B.D.S. examination.

2. At the said stage, the petitioner filed Writ Petition No. 31375 of 1995 praying therein to issue appropriate directions to the University to issue hall-ticket to the petitioner for the said examination. In this writ petition, on 12-1-1996 an interim order was passed. The relevant portion thereof reads as under:-

"In effect, the University has refused to ratify the petitioner's admission to the B.D.S. Course which is why the present petition has been filed. Appropriate orders will be passed by this Court after the University authorities complete their investigation. As of now, in view of the fact that the petitioner is prosecuting the B.D.S. Course, he shall be permitted to continue with his studies and to appear for whatever exams that would normally like to take. The respondents shall

make known to him within a period of one week from today the results of the last exam and it is clarified that all these will be subject to further orders that this Court may pass on the present petition. I.A. 1 disposed of. The petitioner shall deposit the original marks card with the Registrar (Evaluation) who shall give him a certified Xerox copy of the same for his record".

3. Subsequently, the Registrar (Evaluation) served a Show-cause notice dated 16-2-1996 (Annexure-M) on the petitioner, calling upon him to explain as to why the 2nd B.Sc. marks card/degree in question should not be revoked for tampering entries against two columns in the marks card namely, in respect of Chemistry Practical and Botany Theory.

4. On submission of the reply by the petitioner, the matter was investigated and enquired into with reference to original registers maintained by the University and it was found that the marks card in question pertaining to IInd year B.Sc. was tampered with in the following manner:

Subject As per the tampered marks card As per the ledger of the University

(a) Part-II Optionals: Chemistry Practical 28 29

(b) Botany Theory 25 24

5. The tampering appears to have been necessitated because the petitioner had failed to secure minimum pass marks of 25 in Botany Theory. Accordingly, to maintain the total of marks obtained intact, the marks obtained in Botany theory was sought to be increased by one and that in Chemistry was sought to be reduced by an equal number, by making it 28 instead of 29 actually obtained.

6. Accordingly, the petitioner was served with an endorsement dated 6-5-1996 (Annexure-O to Writ Petition No. 16896 of 1996), which has been filed inter alia for quashing of the said endorsement. The material part of the endorsement reads as under:-

"Adverting to the above, the results in respect of Sri K. Ravikumar, Reg. No. 912 TI 099 of Second year B.Sc., Examination held during April 1992 in the papers Chemistry Practical and Botany Theory and the corresponding Marks card bearing No. 09858 dated 14-8-1992 are here-by withdrawn and the revised failed Marks Card is enclosed in exercise of the powers conferred under Section 15(2) of the Karnataka State Universities Act 1976 read with the Manual on the conduct of Examinations 1976".

7. At the time of hearing the present writ petition the original marks card which, pursuant to the order of this Court noticed above, had been filed by the petitioner with the Registrar (Evaluation), has been produced before him. A perusal of the said marks card makes the tampering obvious to even the naked eyes. Therefore, the impugned endorsement at Annexure-O cannot be interfered with on any valid legal or even equitable ground.

8. The learned Counsel appearing for the petitioner has taken a plea that since

the respondent-Registrar has not recorded any finding with regard to the actual involvement of the petitioner in the alleged tampering of the marks card in question, the petitioner cannot be penalised for any such fraudulent act. I am not agreeable with this proposition. The marks card has been admittedly tampered with only to benefit the petitioner and this circumstance strongly probabalises the involvement of the petitioner in the said unwarranted act. But even if it is not taken to be a circumstance appearing against the petitioner, the fact remains that the marks card, on the basis of which the petitioner had obtained his admission to the B.D.S. Course, was a tampered and forged document and therefore its existence is to be ignored and if done so, which can be the only legal consequence, the petitioner falls short of the eligible minimum qualification required for entering the B.D.S. Course.

9. In case of *D. Ramanujam v The Dean, Bangalore Medical College and Another*, ILR 1973 Kar. 955, a Division Bench of this Court while dealing with similar situations has held as under:-

"The evidence in these cases discloses a disturbing state of affairs. There is a clear evidence that the marks cards obtained by the petitioners do not represent the real marks secured by them in their examinations. On the strength of these fraudulent marks cards, the petitioners have secured admission in the Medical College. The authorities have correctly taken action in cancelling their seats. The contention for the petitioners that the University has not canceled or withdrawn the marks card given to the petitioners and therefore the college authorities are bound to act upon them, cannot be accepted. We are satisfied that there has been a fraud committed by somebody in order to secure admission of the petitioners to the Medical Colleges. It is not necessary for us to hold as to who is responsible for that fraud. The fact remains that the petitioners are the beneficiaries of the fraud and the jurisdiction of this Court under Article 226 of the Constitution cannot be invoked for the benefit of the beneficiaries of the fraud".

10. For the said reasons, in my opinion, the petitioner is not entitled to any relief in either of the writ petitions, which are accordingly dismissed. Appearance of the petitioner at any of the University examination pursuant to the above referred interim order shall be ignored. No costs.