
(2016) 08 AP CK 0005

In the Andhra Pradesh High Court

Case No : Writ Petition Nos. 7152, 22626 & 25240 of 2016

K.C. Bhavan Reddy

APPELLANT

Vs

NTR University of Health Sciences

RESPONDENT

Date of Decision : 23-08-2016

Acts Referred:

Citation : (2016) 5 ALT 648 : (2016) 6 AndhLD 318

Hon'ble Judges : Sri V. Ramasubramanian and Smt Anis, JJ.

Bench : Division Bench

Advocate : Bharadwaj Associate, Advocate, for the Petitioner WP No. 7152 of 2016; A. Bhaskara Chari, Advocate, for the Petitioner WP Nos. 22626 and 25240 of 2016; Taddi Nageswara Rao, Standing Counsel for University G.P. for Telanagana, for the Respondent No. 1 in W

Final Decision : Allowed

Judgement

V. Ramasubramanian, J.—The story that unfolds in the cases on hand, resembles that of a Tamil feature film titled Ore oru gramathile, whose censor certificate was cancelled by a Division Bench of the Madras High court on the ground that the film sought to propagate a philosophy that was anti-Constitutional. But the Supreme court reversed the judgment of the Madras High court in a decision rendered in S. Rangarajan v. P. Jagjivan Ram, (1989) 2 SCC 574 which became a watershed in the history of the law relating to the fundamental right to freedom of expression.

2. The petitioners in the first writ petition W.P.No.7152 of 2016, appeared for EAMCET 2015. On the basis of the ranks secured by them and the certificates produced by them, the petitioners were allotted to different Medical Colleges affiliated to the 1st respondent University, during the Academic Year 2015-2016.

3. When the petitioners in W.P.No.7152 of 2016 were undergoing the first year of their course of study, the 1st respondent University received information to the effect that the petitioners produced bogus certificates, relating to their caste and/

or relating to the schools where they studied and gained admission to the medical courses. Therefore, a police complaint was lodged in Crime No.359 of 2015 for alleged offences under Sections 420, 466, 468 and 471 IPC. As against some of the petitioners, the offences complained of included the offences under the relevant provisions of The Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993.

4. It appears that pursuant to the registration of the complaint and the arrest of the petitioners herein, the University suspended them from pursuing the course of study any further. For reasons not readily known, the petitioners in W.P.No.7152 of 2016 have not chosen to challenge the action of the University in placing them under suspension.

5. On the contrary the petitioners came up with the first writ petition in W.P.No.7152 of 2016 merely seeking the issue of a writ of mandamus to direct the respondents to return the original educational records/certificates, to enable them to pursue their academic career in other educational courses.

6. On 15.7.2016 a learned Judge of this Court passed an interim order, directing the University to issue attested copies of the certificates, with an indication therein that the originals are retained by the University.

7. In the meantime, the first petitioner in W.P.No.7152 of 2016 seems to have appeared for EAMCET 2016 and secured a high rank. Therefore, he was invited for verification of certificates in the web counselling scheduled to be held on 13.7.2016. Since the original certificates were with the University, the first petitioner in W.P.No.7152 of 2016 came up with the second writ petition in W.P.No.22626 of 2016 seeking a mandamus to direct the University to dispense with the production of the original certificates.

8. The said writ petition W.P.No.22626 of 2016 was filed on 11.7.2016. On 12.7.2016 this Court appears to have passed an order directing the respondents to dispense with the production of the original certificates for the present.

9. Armed with the said order, the petitioner appeared for web counselling. But he gained an impression that he will not be granted seat. Therefore, the petitioner in the first writ petition W.P.No.7152 of 2016, has come up with the third writ petition in W.P.No.25240 of 2016 seeking a mandamus to direct the University to provide log in ID to enable him to exercise the web options and also to allot a seat, in the order of merit.

10. The third writ petition W.P.No.25240 of 2016 came up before us for hearing and at that time we were informed of the previous two writ petitions. Therefore, we directed the first two writ petitions also to be listed along with the third writ petition. Accordingly, all the 3 writ petitions are now listed before us.

11. We have heard Mr. A. Bhaskara Chari, learned counsel for the petitioner, Mr. Taddi Nageswara Rao, learned Standing Counsel for the University and the learned Government Pleader for State of Telangana.

12. At the outset, we have to point out that there are no disputes about the following facts:

(a) that all the writ petitioners in W.P.No.7152 of 2016 appeared for EAMCET 2015, became successful and gained admission to the first year Undergraduate Medical Courses in various colleges;

(b) that on the basis of the report filed by the Tahsildar of Kallur Mandal on 14.10.2015, a FIR in Crime No.359 of 2015 was registered on 15.10.2015 on the file of Kurnool IV Town Police Station against all the six petitioners in W.P.No.7152 of 2016;

(c) that the allegation against all the 6 petitioners was that they produced false Community Certificates and gained admission to the Medical courses;

(d) that on the basis of the report of the Tahsildar and the police complaint, all the 6 petitioners were also suspended by the University from pursuing the courses of any further; and e) that none of the petitioners herein has chosen to challenge the action of the University in placing them under suspension and not allowing them to pursue the courses to which they were admitted in the academic year 2015-2016.

13. In the light of the above admitted facts, all that the petitioners in W.P.No.7152 of 2016 want, is only a direction to the respondents to return the original certificates relating to their educational qualifications. The first petitioner in W.P.No.7152 of 2016 has come up with an additional prayer to permit him to seek admission at least in the next academic year namely 2016-2017 on the basis of his performance in EAMCET 2016.

14. In the light of the fact that all the petitioners have reconciled themselves to the eventual cancellation of their admission to the Undergraduate Medical Courses for the Academic year 2015- 2016, two questions arise for consideration in these writ petitions. They are:-

(1) Whether all the petitioners in W.P.No.7152 of 2016 are entitled to get back their original certificates; and

(2) Whether the petitioner in the other two writ petitions (who is also the first petitioner in the first writ petition) can be allowed to be admitted to the first year of the Undergraduate Medical Courses for the current academic year 2016-2017 on the basis of the rank secured by him in EAMCET 2016.

Question No.1:

15. The answer to the first question is not very difficult to be found out. As seen from the First Information Report, lodged against the petitioners in W.P.No.7152 of 2016, they are alleged to have produced false Community Certificates. Therefore, the certificates that form the basis of the criminal complaint, cannot be returned to them.

16. However, there can be no impediment for returning all other certificates such as SSC mark sheet, Intermediate mark sheet etc. If these mark sheets are withheld till a final report is filed before the concerned Criminal Court or till the trial of the criminal case is concluded, the writ petitioners in W.P.No.7152 of 2016 can neither join in any other course of study nor take up employment. It can never be the intention of the State or the prosecution to penalise the petitioners, even before conviction, by depriving them of a chance, either to pursue other educational courses or to take up employment, till the criminal case is taken to its logical end.

17. Unfortunately, our Criminal Justice System, in practise, happens to be only retributive and not reformative. In an ideal society, the system of administration of criminal justice, should also be reformative so that an opportunity to mend ways is given to the guilty and they are ultimately assimilated into the society.

18. All the 6 writ petitioners in W.P.No.7152 of 2016 are aged 19 years. They were just out of school in June-July 2015, when the misfortune, partly created by the society and partly created by their parents, fell upon them. It is sad to note that out of the 6 petitioners in W.P.No.7152 of 2016, 3 are girls. At an age when they are simply driven by the ambition of their parents, these children are a product of certain wrong notions of society which propel the middle class to achieve in life through their children, what they themselves could not achieve.

19. In other words, though the petitioners in W.P.No.7152 of 2016 happen to be accused of fraud, the blame is not entirely upon them. The blame is to be shared by many, including the parents of these children. Therefore, it is very hard, both for the State as well as the Court to penalise these children by withholding their educational qualification certificates and depriving them of the benefit of undergoing some other educational courses or taking up some employment, during the pendency of the criminal case.

20. The only consequence of depriving the petitioners of the benefit of the return of the certificates, will be to deprive them for the next two or three years from undergoing any course of study or from taking up any employment. This will not only tantamount to a penalty before conviction but would also establish a devils work shop in these idle minds. At least if these children are engaged in an avocation or in any other course of study their psyche can be brought to normalcy. Otherwise, the system itself will be guilty of creating criminals out of these young minds which are now fertile.

21. Therefore, we are of the considered view that W.P.No.7152 of 2016 deserves to be allowed, if not on purely legalistic perspective, but at least on considerations of social necessities and a reformative action. Therefore, W.P.No.7152 of 2016 is allowed directing the respondent University to return to the petitioners, all the certificates produced by them at the time of their admission for the academic year 2015-2016, except those certificates such as Community Certificates, or Study Certificates, which are the subject matter of

dispute, enquiry and criminal complaint.

Question No.2:

22. The second question relates to the entitlement of the petitioner in the second and third writ petitions (who is also the first petitioner in the first writ petition) to be admitted to the appropriate course for the academic year 2016-2017.

23. In a counter affidavit filed by the University in W.P.No.25240 of 2016, a tabular form is given, indicating the certificates produced by the petitioner in the last academic year and produced by him in the current academic year. This tabular form is extracted as follows:

S.No

The Study Certificates produced on 15.7.2016 for the year 2016.

The Study Certificates already produced on 11.9.2015 for the year 2015.

1.

1 to IV classes during the year 2003-04 to 2006-07 with admission No.245/2003-04 issued from Sri Vivekananda (E.M) High School, Kuppam.

VI to IX classes during the year 2008 to 2012 with admission No.3025/2008- 09 issued from Principal, S.R. High School, Kakaji Colony, Hanumkonda.

2.

V to VII classes during the year 2007-08 to 2009-10 with admission No.248/2007 issued from Head Master Montfort Centenary School, Kuppam, Chittoor District.

X class during the year 2012-13 with admission No.3626/2012-13 issued from Head Master, Bhasyam High School, Air Bypass Road, Tirupathi.

3.

VIII to X classes during the year 2010-11 to 2012-13 with admission No.3626/2010-11 issued from Head Master, Bhashyam High School, Tirupathi. One with dated 23.7.2015 and another without date.

Intermediate for the year 2013-15 with admission No.677, dated 07.05.2015 from the Principal, Sri Chaitanya Junior College, Punadipadu, Vijayawada.

4.

Submitted Caste Certificate as OC Kapu AP-03-49031767 from Mee Seva. No.1315150550172.

Submitted Caste Certificate as BC-D (Yadava) with Bar code.

24. It is seen from the affidavit filed by the petitioner in W.P. No.25240 of 2016 that the petitioner secured 595 marks out of 600 in the Intermediate

Examination held in 2015. He has admitted in paragraph 4 of the affidavit that he belongs to the Open (unreserved) category. In paragraph 2 of the affidavit, the petitioner has indicated the circumstances leading to his admission to the MBBS course last year and the registration of the criminal complaint resulting in the cancellation of the admission.

25. Without attempting to justify his conduct or his admission to the medical course in the last academic year, the petitioner has chosen, as seen from para 6 of his affidavit, to undergo a long term coaching for AP EAMCET, 2016 and Telangana EAMCET 2016. He seems to have secured the rank 1943 in AP EAMCET and rank 705 in Telangana EAMCET.

26. Therefore, we are of the considered view that all the observations that we have made while granting relief to the petitioners in W.P.No.7152 of 2016 are equally applicable to the present writ petitioner. We only hope that the gesture shown by this Court, for the purpose of rehabilitating the petitioners and reforming them, is taken as an eye opener for the parents of these children. If the petitioner in the second and third writ petitions is granted admission, on the basis of the genuine certificates and the genuine marks secured by him for the academic year 2016-2017, the University shall also examine the possibility of sending the petitioner for a short-term course on human values or to a State-run home for the aged/physically disabled/destitute, asking him to render service in such a home for a specified period. We would have liked the parents of these petitioners to go for such a course on value education, but they are not parties before us and perhaps it is too late in the day for the parents of these children to undergo any such course.

27. In fine W.P.Nos.22626 of 2016 and 25240 of 2016 are also allowed directing the University to grant admission to the petitioner, to the appropriate courses in the appropriate college, for the current academic year 2016-17, on the basis of the actual marks secured by him and on the basis of the genuine certificates produced by him. This direction is subject to the availability of seats. We make it clear that we are granting relief to the petitioners, not on the ground that they have not done any wrong nor on the ground that the University committed any mistake. We are granting relief to the petitioners, only due to the fact that after having scored very high marks in intermediate examination and after having scored high ranks in the entrance exams, they have landed up in police stations at the age of 18 years, on account of the flame of ambition ignited by their parents.

28. The miscellaneous petitions, if any, pending in these writ petitions shall stand closed. No costs.