
(1996) 04 KAR CK 0036
In the Karnataka High Court
Case No : Writ Petition No. 8880 of 1996

Kum. Rukmi B. Ray

APPELLANT

Vs

The Commissioner for Public Instructions and others

RESPONDENT

Date of Decision : 02-04-1996

Acts Referred:

Citation : AIR 1996 Kar 394 : (1996) 3 KarLJ 663

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

Bench : Single Bench

Advocate : L. Umakanthan, for the Appellant; A.V. Srinivasa Reddy, A.G.A. and J. Kanakaraj, for the Respondent

Judgement

1. I have heard the petitioner's learned advocate, the learned advocate who represents the R. 3 College as also the learned Govt. Advocate.

2. The case made out is that the petitioner has been suffering from epilepsy for the last several years and that this was the reason why she was unable to obtain the minimum attendance requirement. The petitioner's learned advocate relies on a circular dt. 22-3-95 issued by the Govt. of Karnataka wherein, it has been pointed out that even in those of the cases where the student falls short of the minimum attendance requirement that if there is a genuine, medical ground which is established to the Satisfaction of the college authorities, that the head of the institution shall have the discretion to condone the short fall of attendance. Learned advocate submits that having regard to this position, that the Respondent No. 3 should have condoned the short fall of attendance principally because the circular mentions that if the academic performance of the student is otherwise good, that the head of the institution can condone the short fall. Learned advocate points out to me that this girl, irrespective of her impediment has done well in her earlier exams, and that therefore, she may be permitted to take the ensuing II P.U.C. exam.

2A. On behalf of the respondents, a reply has been filed wherein it has been

pointed out that the petitioner's short fall is below the prescribed minimum 60% and that under the rules, the college authorities have no power to condone the short fall. Petitioner's learned advocate points out to me, and very correctly, that the principal was unaware of the circular Annex. B which has virtually come as a surprise because the rules have not been amended even though this circular may virtually water down the provisions in the rules. Apart from this, the college authorities have pointed out that the petitioner has been attending some classes and not attending others which clearly leads to the inference that she must have been attending the college all those days but still stayed away from certain lectures. It is therefore submitted that the medical ground cannot really come to the assistance of the petitioner.

3. In addition to this, the learned advocate who Respondents R-3 points out to me that it is the duty of a student who claims exceptional or genuine circumstances to come to the head of the institution in good time and to apply for condonation. If it is a genuine and valid case and comes within the framework of the principal's powers, the same will certainly be considered but this decision must be left to the head of the institution. I am in agreement with this submission because it is well settled law that in academic matters, decisions of this type must necessarily be left to the heads of the institutions who are presumed to act responsibly and correctly but more importantly, who are aware of all the attendant facts and take a decision after considering all those circumstances.

4. Under normal circumstances, this Court would not have interfered in the present case also because the petitioner has not applied to the head of the institution for condonation of delay, even assuming that this power vested in the principal by virtue of Ex. G. the only reason why I am inclined to make a special exception is because the academic record of the young student indicates that she has been doing well in her studies and it is a very unfortunate case where she is afflicted by epilepsy. This is a situation which would distinguish the petitioner's case from all others but I do concede that even if that was the position, that she ought to have gone to the principal with the very same material that has been pointed out to this Court and requested the principal to consider the case and I am certain that had this been done, the principal would have taken a fair decision. Learned advocate who represents R-3 points out to me that the principal is required to maintain good standards and proper discipline in the college and that under these circumstances the students who do not attend their classes seek to bypass the rules by producing medical certificates which are indiscriminately issued and that this situation would seriously affect the standards and status of the institution. That aspect of the matter is also true and that is one of the reasons why, in appropriate cases, unless the record inspires full and total confidence the principal would be fully justified in refusing to accept all sorts of bogus certificates which are produced at the eleventh hour. This case does not come in that category and that is the reason why I am inclined to make a special exception.

5. Again, the petitioner has approached this Court virtually on the eve of the examination. However, a statement is made at the Bar that except for the attendance short fall, that she is otherwise qualified and that she has paid the examination fees. The examination is to be held at the college itself and hence, it would not be impossible for the authorities in the course of this week to make necessary arrangements to permit the petitioner to take up the examination. This again, is a concession that this Court is granting because of the medical condition of the petitioner.

6. The petitioner shall for purposes of record, ensure that a formal application is submitted to the principal tomorrow itself indicating that the short fall of the attendance was due to the petitioner's medical condition namely the epilepsy and requesting the principal having regard to the exceptional circumstances of the case to permit her to take the ensuing examination in view of the fact that this Court considers this case to be one where such condonation may be permitted having regard to the grounds. On receipt of the application, the principal may permit the petr. to take the ensuing exam.

7. Before parting with this case, it is necessary for me to record that circulars of the type Ex. G ought not to be issued by the authorities because they would have dangerous consequences. Undoubtedly, where there are grave emergencies or special exceptions, a provision may be put down in the rules if necessary, to cater to these. The authorities must however take note of the fact that non-attendance at classes is virtually fatal in so far as it effectively frustrates the whole purpose of running a course if the students are permitted to stay away from the lectures. Under these circumstances merely making a provision that on medical grounds the short fall in attendance may be condoned is absolutely opening the flood gates because it is a well known fact that medical certificates are freely available and it may become extremely difficult for the head of the institution to verify the genuineness of the case. To my mind, even if medical certificates are produced, the head of the institution can ask for supportive material in order to be satisfied that what is written in the certificate is in fact true. This however would not absolve the Govt. authorities from issuing circulars of this type which conflict with the rules and which supersede them. It is necessary that if such provisions are introduced, that they must also be made known to the heads of all the educational institutions as otherwise difficulties of the present type would undoubtedly arise. A note of caution requires to be sounded in so far as necessary provision must be made while issuing these sort of directions that only in the rarest of the rare cases should the medical ground being accepted and that merely because somebody pleads illness or injury that it may not be sufficient for condonation of short fall in attendance.

6. Having regard to the special circumstances of this case, the petition succeeds and is allowed. The college authorities shall act in consonance with the directions therein. Rule absolute to this extent. No order as to costs. Learned Govt. Advocate permitted to file memo of appearance within 3 weeks.

7. Petition allowed.