

(2002) 09 KAR CK 0025
In the Karnataka High Court
Case No : Writ Petition No. 35855 of 2002

Kum. V.M. Nagamani

APPELLANT

Vs

University of Agricultural Sciences and Another

RESPONDENT

Date of Decision : 27-09-2002

Acts Referred:

Karnataka University of Agricultural Science Act, 1963 — Section 5 (2)

Citation : AIR 2003 Kar 68

Hon'ble Judges : N. Kumar, J

Bench : Single Bench

Advocate : A.V. Gangadharappa, for the Appellant; D.N. Nanjunda Reddy, (for No. 1) and B. Manohar, Government Advocate (for No. 2), for the Respondent

Final Decision : Dismissed

Judgement

N. Kumar, J.—The petitioner is a resident of Jagalur and claim to be a person belonging to an agricultural family. The petitioner's case is that the father of the petitioner is an agriculturist and the agricultural income is the only source. The petitioner had her education from I Standard to II P.U.C. In Jagalur Town, the population of which is less than 50,000. She has secured 86.35 in P.C.B. As per the prospectus and instructions issued by the University, she applied for admission to B. V. Sc. Course along with the documents showing that she is coming from a rural area and an agricultural family. She appeared for the counselling on 20-9-2002 along with the documents. The respondents have refused to consider her application under the reservation category viz., rural quota or children of an agriculturist on the ground that the certificate produced by her is not countersigned by the appropriate authority, and the certificate produced by her to show that she is coming from an agricultural family does not satisfy the requirements prescribed under law and therefore she is deprived of a seat. Therefore, she has filed this writ petition seeking a writ of mandamus to direct the first respondent to admit the petitioner for B. V. Sc. Course by considering her case as a student under the rural quota and a person belonging

to agricultural family.

2. Respondents have filed their statement of objections and they contend that the petitioner does not satisfy the requirements prescribed under law. As such, she is not entitled to the benefit.

3. Learned counsel for the petitioner Sri A. V. Gangadharappa contends that in the prospectus issued by the University, for the purpose of rural quota it, has been categorically stated that the person who has studied from I to X Standard in an area where the population is less than 50,000 is entitled to the said benefit.

Accordingly, though the appropriate authority has not countersigned the certificate issued by the Head Master of the school, the certificate produced by her shows that the population of Jagalur is 12,099 and therefore he contends that the petitioner satisfies the requirement in law for being considered under the rural quota. Insofar as her claim under the person belonging to an agricultural family is concerned, Annexure-E produced along with the writ petition which is issued by the Tahsildar categorically states that the petitioner's father and their family members are permanent residents of Bistuvalli village and in the name of the petitioner's grand father an extent of 34 acres 6 guntas of land stands and therefore, the petitioner also satisfies the requirement of a student who is coming from an agricultural family. According to the rules, 50% of the marks obtained in P.C.B. of the II year has to be considered and the 50% of the marks obtained in Veterinary Entrance Test is to be considered. If that is done, the petitioner gets 74.8% and 10% is added, the petitioner gets the total percentage of 83.8%, whereas in the General Merit a person who has secured 81.61% has been awarded a seat in the B.V.Sc. Course and therefore he submits that a merited student has been deprived of a seat for which she is legally entitled to.

4. Sri Nanjunda Reddy, the learned counsel appearing for the first respondent contends that the certificate produced by the petitioner showing that she is coming from an agricultural family does not satisfy the requirements under law. As such, the petitioner is not entitled to the benefit. Insofar as her claim under rural quota is concerned, the certificate produced by her is not countersigned by the appropriate authority and therefore the respondent-University cannot consider the same. Therefore, he contends that the petitioner is not entitled to the reservation and she cannot be given additional marks apart from what she has secured in the examination, as she has no merit, she cannot be considered for the admission to B. V. Sc. Course.

5. Insofar as the claim of the petitioner under agricultural family quota is concerned, the University of Agricultural Science Act, 1963 provides certain criteria for admission under that category. Section 5 of the Act deals with the admission to the University and Sub-section(2) of Section 5 of the Act provides for reservation of seats to the children of agriculturists who possess the minimum qualifications on their behalf. Explanation to Sub-section (2) of Section 5 of the Act defines who is an agriculturist, which reads as under :--

"For the purpose of Sub-section (1), "agriculturist" means a person who, as owner or tenant holds land and whose main source of income is from personal cultivation of the land and includes any person whose principal means of livelihood is from manual labour on agricultural lands."

6. Therefore it is clear that before a student can claim the benefit he or she must establish that the parents hold land as owner or as tenant and that their main source of income is from personal cultivation of the land. Mere holding of the land and getting cultivated through hired labour would not satisfy the definition of the agriculturist under this Act. The person holding the land shall personally cultivate the land and that should be the main source of income. The object appears to be, that when a person cultivates the land personally, he has to reside near the land, which necessarily means in the village, where the land is situate. When agricultural operation is the main source of income, he is necessarily tied down to the land and village, which prevents him from moving out his family from the village. In other words, they are dependent on agriculture for their living. Their children do suffer from certain handicaps. It is in this background, in order to enable them to compete with others, this reservation is provided. Therefore, this reservation is not meant for children whose parents are holding land and getting cultivated through hired labour, whose main source of income is from other sources such as salary, business or from profession and income from land is only an additional income. Similarly, some body else in the families including the grand father holding land would not satisfy the definition.

7. The certificate produced by the petitioner shows that it is the grand father who owns 34 acres and 6 guntas of land and nothing is said about the petitioner's parents owning such lands and more so that being the main source from their personal cultivation. Under these circumstance issued by the Tahsildar does not show that the petitioner's parents are agriculturists as defined under the Act. As such, the petitioner is not entitled to reservation of a seat under the aforesaid provision.

8. Insofar as her claim under the rural quota is concerned, it is on the basis of the Government Order dated 29-7-1994 where the criteria prescribed was that the students who are coming from rural area have studied in the place where the population was less than 50,000 are held to be eligible under the said quota. Unfortunately, though the said Government Order is no more in existence, still the University in their prospectus have referred to the said Government Order. The said Government order was challenged before this Court and this Court has set aside the said order as being arbitrary, which order was affirmed by the Division Bench of this court and the SLP against the said order was also dismissed by the Supreme Court. Therefore, the Government of Karnataka taking note of the observations made by the Division Bench of this court formed a Committee to go into the said question and the Committee has submitted a report and on the basis of which, the Government has passed an order dated 5-1-2002. To the said Government Order it has annexed a statement of Towns

and Cities. The students who have studied in those places are not entitled to the benefit of rural quota. It is not in dispute that Jagalur, where the petitioner had her studies from I to X Standard is one of those Towns which are noted in the said order. Therefore, the petitioner is not entitled to the reservation of a seat under the rural quota.

9. Learned counsel for the petitioner contends that the persons who have come from the similar place have been granted seats by the University in total ignorance of the Government Order and therefore he submits that the said benefit is to be extended to the petitioner also. The persons who have been given seats are not made parties to these proceedings. Even assuming that in total ignorance the University has admitted those students that would not confer on the petitioner any right to seek an admission on that ground.

Under these circumstances, I do not find any merit in any of the contentions urged by the petitioner. As such this writ petition lacks merits. Accordingly it is dismissed.