

(1996) 10 KAR CK 0003
In the Karnataka High Court
Case No : WPS No. 22451 to 22468/96

Mahadevappa D. Gouri and Others

APPELLANT

Vs

University of Agricultural Sciences

RESPONDENT

Date of Decision : 11-10-1996

Acts Referred:

Citation : (1996) ILR (Kar) 3332 : (1996) 7 KarLJ 566

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

Bench : Single Bench

Advocate : K. Subba Rao, for the Appellant; H.K. Vasudeva Reddy, for the Respondent

Final Decision : Allowed

Judgement

G.C. Bharuka, J.—The petitioners herein, had filed the present Writ Petition on 5.8.1996 with the prayer that the respondent-University be directed to consider their cases for admission to the post graduate course in veterinary sciences (M.V.Sc.) for the academic year 1996-97.

2. On 27.5.1996 the respondent University had issued a notification (Annexure "A") inviting applications for admission to the post graduate course in question. As per this notification the applicant was required to have passed the Bachelor Degree in Veterinary Science (B.V.Sc.). Note 5 of the said notification inter alia further provided that

"the candidate should produce original OGPA/OGPA Card at the time of interview failing which, they will not be interviewed."

3. Admittedly, the petitioners had pursued their studies and training in B.V.Sc. course as students of the respondent University. At the time of issuance of the notification at Annexure "A", the petitioners were in the final year of B.V.Sc. course, which is a 5-year degree course. The examination of the final year of the course was held by the University between 19.8.1996 and 24.8.1996. During the pendency of the present Writ Petition the results of the petitioners have been

announced 8.9.1996 as is evident from Annexure "G". They have also been granted provisional certificate as well as the cumulative grade cards. The said documents have been filed with the affidavit on 25.9.1996. From the said documents it transpires that the present petitioners have fared quite well at their degree examination securing approximately between 68% to 93.75%

4. The grievance of the petitioners, as laid in the present petition is that the date of interview for admission to P.G. course was so fixed that the petitioners may not become eligible to compete for admission to the said course, though the University in all fairness should have either scheduled the examination programme of the B.V. Sc course in a manner so that results could have been declared prior to the date fixed for the interview for admission to the P.G. course or they should have postponed the said date of interview to a date subsequent to announcement of the results of B.V.Sc. course. But according to the petitioners, it was not so done intentionally. They have alleged malafides against the Officers of the University for not doing so by pleading that the University Authorities had designed the programme for selection to P.G. course in such a manner that the petitioners, who are better merited may be ousted from the competition, in order to facilitate the admission of less merited candidates who had passed even through compartmental examinations.

5. Though the statement of objections has been filed on behalf of the respondent University but, to my mind, they have failed to assign any good and rational reason for not appropriately scheduling the date of interview for admission to the P.G. course so that the present petitioners, who are its own graduates, could have availed the opportunity of competing for admission to the P.G. course. The only ground which has been set out by the respondent University for not doing so is that the University wanted to start the academic year of the course in September 1996, since according to them for one or the other reason it had been delayed in the earlier years.

6. The reason does not seem to be very convincing. If the University was really serious in maintaining the academic year for the under graduate and post graduate courses within a defined period, it would have been more advisable on its part to complete the process of examination including the announcement of results of B.V.Sc. Course more expeditiously and atleast before the date of interview fixed for selection to the post graduate course. From the facts as pleaded it does not seem that there was any difficulty on the part of the University in doing so. Moreover, the gap maintained between the two dates was hardly of two weeks. Therefore, it seems more probable to infer that such a course was adopted to accommodate some less merited students to the P.G. Course by driving out the petitioners from the selection process.

7. The respondent University is the alma mater of the petitioners. Therefore, they can claim by way of legitimate expectation and to some extent, as a right, of being considered for admission to higher courses conducted by their University subject to their eligibility and inter-se merit criteria. Such an expectation of the

students cannot be defeated except for some good reasons having bearing on maintenance of academic standard of the course.

8. In the case of Dr. Jagadish Saran and Others Vs. Union of India (UOI), while dealing with the validity of University-wise reservation, the Apex Court has noticed two important aspects pertaining to admission to educational courses. In paragraph 39 of the judgment it has been held that

""If equality of opportunity for every person in the country is the constitutional guarantee, a candidate who gets more marks than another is entitled to preference for admission. Merit must be the test when choosing the best, according to this rule of equal chance for equal marks. This proposition has greater importance when we reach the higher levels of education like post-graduate courses".

9. Again in paragraph 48 of the above referred judgment, it has further been observed that:

"Another consideration which justifies some measure of reservation is the desire of students for institutional continuity in education. Parents, pupils and teachers will usually prefer such continuity and it has its own value"

10. In the case of ATTORNEY GENERAL OF HONG KONG v. NA YUVEN SHIU 1983 (2) AC 629, the Privy Council has observed that "legitimate expectation" are capable of including expectations which go beyond enforceable legal rights, provided they have some reasonable basis. In Halsbury's Laws of England [Fourth Edition (Reissue) Volume 1(1) para 81], it has been observed that:

"A person may have a legitimate expectation of being treated in a certain way by an administrative authority even though he has no legal right in private law to receive such treatment. The expectation may arise either from a representation or promise made by the authority, including an implied representation, or from consistent past practice"

11. In the present case, admittedly the process of selection for admission to the P.G. course in question has not yet been completed. Therefore, keeping in view the legal principles noticed above, it is directed that the respondent University should allow the petitioners as well to participate in the selection process after giving them an opportunity of appearing in the interview, on a day to be immediately notified.

12. The Writ Petition is accordingly allowed but without costs.