

(1996) 01 AP CK 0017

In the Andhra Pradesh High Court

Case No : Writ Petition No. 26657 of 1995

Miss. Veena B. Chaudhari

APPELLANT

Vs

Convenor, Centralised Admission Committee

RESPONDENT

Date of Decision : 29-01-1996

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1996 AP 209 : (1996) 1 ALT 791

Hon'ble Judges : T.N.C. Rangarajan, J

Bench : Single Bench

Advocate : R.S. Murthy and K. Ramakanth Reddy, S.C., for the Respondent

Judgement

T.N.C. Rangarajan, J.

1. This writ petition is directed against the order of the respondent shifting the petitioner from Nizam College to the University College of Science, Osmania University. An interim direction was given to permit the petitioner to continue her studies in the Nizam College, and the respondents have filed a petition to vacate the interim direction. Consequently, by consent of the parties, the writ petition itself was heard.

2. The petitioner applied for M.Sc., (Physics), and in the application she had given M.Sc. (Tech.) Applied Electronics in University Science College as the first choice; M.Sc. (Physics) in University College of Science as the second choice, and M.Sc. (Physics) in Nizam College as the third choice. According to the rules of admission, where a course is offered at more than one college, the candidates are required to exercise their order of preference and the preference once exercised is final. It also states that the allotment of candidates to different colleges would be made on merit-cum-preference basis and will be final. In the provisional list of admissions published on 29-7-1995, the petitioner was allotted M.Sc. (Physics) in Nizam College and, accordingly, she accepted that allotment and joined Nizam College on 8-8-1995 where she is studying. Subsequently, the

final allotment of the candidates was made and sent on 29-9-1995 to the Principals of the colleges and the petitioner's name did not figure in the list of candidates allotted to Nizam College and her name was taken over to final list in respect of University College of Science for the same M.Sc course. When she was told about this, she made a representation dated 9-11-1995 stating that she was quite happy with the allotment to Nizam College where she was given electronics and computer programming as specialisation which was not available in the University College and further it was near to her house and enabled her to attend on her ailing mother and that Nizam College had no objection to her continuing there itself. This was referred to the convener on 18-11-1995, who gave a note to the Registrar on 23-11-1995 stating that she cannot be allowed to change the option as others have accepted the change. But, this decision was not communicated to her. She filed the writ petition on 24-11-1995 as her name was struck off the rolls of Nizam College. The learned counsel for the petitioner brought to my notice the subsequent communication dated 14-12-1995 sent by the Principal of University College informing the petitioner that she had not attended a single class from commencement of the course for the academic year 1995-96 and she is not eligible to appear for the examination.

3. The contention of the petitioner is that once having joined Nizam College and commenced studies, it was unreasonable for the authorities to expect her to leave the college and join another college only because certain adjustments have been made in the final list. It was also submitted that the entire exercise of finalising the seat according to preference has been made without considering the courses applied for by the petitioner and, therefore, the allotment itself is arbitrary and the consequential shift was untenable. The learned counsel for the respondents justified the change by contending that the original admission was only provisional and the allotment is always subject to the making of a final list and the petitioner did not acquire any right to remain in Nizam College. It is also submitted that the first semester syllabus is common to all the candidates and the petitioner would not be affected by being shifted from Nizam College. It was also argued that all others who have been shifted have accepted the shift and joined their new places which was done on the basis of merit-cum-preference and there was no vacancy in Nizam College for the petitioner to continue there.

4. I have gone through the connected papers and heard both sides at length. I find that the only justification offered is that the allotment has been finalised on the basis of the preference given by the candidates and, therefore, the candidates are bound to accept the same. I am unable to accept this connection for two reasons. The first is that the choice of preference is that of a candidate and not that of the university, and the rule itself says that once the choice is exercised by the candidate it cannot be changed. In the present case, the first choice of the candidate was for M.Sc., Electronic Course in the University College of Science. Admittedly, in the final list this choice was not given as this subject was not offered to the petitioner. With reference to the second and third choices, the petitioner had opted for M.Sc. Physics in the University College of Science

and Nizam College as successive choices. In the provisional list, the petitioner has been given Nizam College. Once she has accepted and joined that college, any shift from that college will require an opportunity to the candidate to vary the option, because according to the rule option once exercised is final and cannot be changed. The contention of the learned counsel for the respondents is that the shift has been made because the petitioner was required to be given her second choice according to merit. This argument is unacceptable as long as the course remains the same because the option refers not only to the college but also to the course. Secondly, R. 6 relating to the allotment of specialisation/college/centre States:

6. The choice of course/specialisation is given the priority over the choice of colleges/ centres in making allotment of candidates to different courses/ specialisation/collages/ P.G centres.

According to this rule, choice of course comes first and then only will there be a choice of college. When the University is unable to give the first choice course applied for by the petitioner, it is meaningless to say that in the second choice course the college will be shifted by the university according to merit, nor will this rule permit it. The other R. XVII(a) provides as follows:

XVII. Allotment of candidates to different collages/centres:

(a) Where a course is offered at more than one college/centre, the candidates are required to exercise their order of preference of study among different university college/ centres. Preference once exercised is final. The allotment of candidates to different collages/centres: will be made on merit-cum-preference basis and is final.

This itself indicates that once an allotment is made, it must be taken to be final and the candidate must get reconciled to it and cannot ask for a change. This embargo cuts both ways; just as the candidate cannot ask for change nor can the convener change the allotment without notice. The rule implies an adequate opportunity to the petitioner before the provisional allotment is changed and once the candidate accepts the choice which is stated to be final, it cannot be changed without exercise of the option by the candidate. Since such exercise is not provided and the rule itself says the choice of the candidate once given will be taken to be final, it is not possible for the University to change the college by merely calling the first list as the provisional list. Actually the first list was provisional admission only to a particular course. It was because R. 6 enables the University to allot a better course in case of vacancies that it was called provisional and it cannot be regarded as provisional allotment to the college without any change in the course of preference. I am of the opinion that the candidates are put to unnecessary difficulty and tension in the course of their studies when the shift does not really enure to the advantage of the candidate inasmuch as there is no change in the course which is preferred over the course which is allotted. The entire exercise of the provisional list and the final list has

been made without taking into account the individual preference of the candidates for the course as required by R. 6, and I am of the opinion that finalisation of preference without an opportunity to the candidates who are affected thereby is unreasonable and arbitrary.

5. The last contention of the learned counsel for the respondents that there is no seat available in Nizam College cannot also be accepted because once the decision to shift the petitioner from Nizam College to University College is held to be illegal and arbitrary, then some other person who is to be brought to Nizam College in the place of the petitioner has to go back to the original place. There may be chain reaction, but it cannot be helped. May be, a number of students have accepted the changed because they considered it too much of a bother to challenge the finalisation made without opportunity to them. As far as the petitioner is concerned, when it is held that her shift from Nizam College to University College of Science without changing the course is illegal, I have necessarily to quash the direction of the respondents shifting the petitioner from Nizam College to the University College of Science.

6. The letter of the Principal, dated 14-12-1995, is an atrocious example of mindless exercise of power. Even according to the respondents, the petitioner was provisionally allotted a seat in Nizam College and had joined there, paid the fees for the academic year on 8-8-1995 and attended classes till her name was struck off the rolls. To state that she has not attended a single class for the course is prima facie false. If the Principal has consciously stated it, his conduct is unbecoming of the post he holds; even if he had signed it without verification, he has failed to apply his mind to a matter which vitally affects the career of a student. Either way this action requires to be condemned. Equally unacceptable is the habit of the authorities not responding directly to the representations and proceeding with the matter as if there can be no objection to the action taken. Persons in power should realise that whenever a representation is made a direct, courteous and prompt answer is required to be given particularly in the academic field befitting its status. He must promptly and penitently make amends by passing a specific order retaining the petitioner in Nizam College, if necessary by adding a supernumerary seat and accepting the attendance put in the Nizam College as well as condoning any absence till today and allow her to sit for the examination. With this direction, the writ petition is allowed. No costs.

Petition allowed.