
(1982) 10 KAR CK 0007
In the Karnataka High Court
Case No : WP 11093/82

M.R. Ananthapadmanabha

APPELLANT

Vs

University of Mysore and Others

RESPONDENT

Date of Decision : 08-10-1982

Acts Referred:

Citation : (1983) 2 KarLJ 196

Hon'ble Judges : M. P. Chandrakantaraj Urs, J

Judgement

1. This writ petition is presented by a student of the I Year B.E. Degree Course of Adichunchanagiri Institute of Technology, Chikmagalur. In the petition he has prayed for issue of a writ of mandamus to the respondents-University of Mysore and the Principal, Adichunchanagiri Institute of Technology, Chikmagalur, to permit the petitioner to take the I Year B.E. Degree examination which commenced on 13-3-1982 and also to continue the course till he completes the same in accordance with the Regulations of the University.

2. Emergent notice was issued to the respondents on 4-8-1982 and an interim order was passed by me directing the respondents to permit the student to take the II Semestar examination at his risk. Similarly, in regard to the examination held in March, 1982, the petitioner was permitted to take the examinations by an order made by me on 4-8-1982 subject to his results being wit held pending disposal of the writ petition.

3. The petitioner's case is that he is eligible to join the B.E. Degree Course, as he was not successful in getting selected by the Selection Committee constituted by the Government for selection for candidates to undergo B.E. Degree Course in Karnataka, he joined the 2nd respondent-Adichunchanagiri Institute of Technology as a student as he fulfilled all the prescribed eligibility qualifications.

4. According to the admission card issued to the petitioner dt. 29-1-1982, the petitioner has been admitted to the 2nd respondent-Adichunchanagiri Institute, of Technology to the I Year B.E. Degree Course for the academic year 1981-82.

The petitioner has averred that he has attended the class since joining the College and in the usual course, he completed the practical examinations held by the University in February, 1982. Thereafter, his application for taking the theory examinations were forwarded through the College to the University in order to enable him to take the examinations commencing from March, 1982. Since no intimation came till the admission ticket was issued to him on 30th March, 1982, he has approached this Court for the relief which has already been set out earlier.

5. After notice, respondents have entered appearance. The 1st respondent-University has filed its statement of objections which is very brief. The objection is to the effect that by notification dated 4-11-1981 all colleges had been informed that for the academic year 1981-82 the last date for admission was fixed on 15-11-1981 and the petitioner undisputedly having been admitted after that date the University had withheld its approval of the admission and therefore did not issue admission ticket for the examination.

6. It is most unfortunate that at the time of hearing the petition, the counsel for the University is not present, though sent for. The 1st respondent has not placed any material before this Court demonstrating that by any Rule, Regulation or Ordinance made by the University, its notification of 4-11-1981, has statutory force nullifying all admissions made after 15-11-1981 to the I Year B.E. Degree Course in colleges affiliated to that University. In fact, in the Karnataka State Universities Act, while various authorities of the University are empowered to make Ordinances, Regulations and Rules providing for the conduct of the examinations prescribing Syllabi for the courses, the conditions under which the Colleges are affiliated to that University etc., no provision is made which prohibits an affiliated College from admitting a student beyond the date that may be specified by the University to a particular course. In fact the only regulation, as contended by the learned counsel for the petitioner, is the Regulation framed by the Academic counsel for all courses of the University making it mandatory that the student should have 75% of attendance in classes. It is further subject to condonation by the Syndicate of the University by another 15% for reasons shown for the shortage. It is therefore argued for the petitioner that late admission is a matter between the student and the affiliated College and the University can disapprove a candidate's admission only on the ground of ineligibility for seeking admission to that course and on no other ground and further that the University can withhold admission ticket for want of attendance and the University cannot take shelter behind the notification which at best can be directory and not mandatory.

7. I think there is some force in the argument advanced for the petitioner particularly when there is none to oppose it on behalf of respondent 1 or bring to the notice of the Court any specific provisions of the Act or the Rules and Regulations of the University to the contrary. This Court has had occasion to go through some of the regulations of the University in other matters. But it is difficult to imagine that either the academic council or the Syndicate or the

Senate which make the Regulations or Ordinances which has the effect of prohibiting the affiliated colleges not run by the University admitting students beyond any date that will be specified by the University. In the absence of such a prohibition which is binding the stand taken by the University in its statement of objections is liable to be rejected.

8. In the result, the petitioner succeeds and a writ of mandamus as prayed for shall issue directing the 1st respondent to approve the admission of the student to the I Year B.E. Degree Course for the academic year 1981-82 and allow him to continue in the course in accordance with the regulations and rules of the University.

9. In the circumstances of the case, I think the petitioner is entitled to his costs. Advocate's fee is fixed at Rs. 300. Rule will accordingly issue and be made absolute.

10. A day after this order was dictated in the open Court, learned counsel appearing for the University mentioned that his absence was unavoidable, as the order was not settled and signed, he should be heard in the matter. An extraordinary request indeed after the indulgence shown by the Court. However the matter was set down in the list for being spoken to and the counsel was heard. His submissions were:

1) that the University issued the notification pursuant to the direction of the Government, and,

2) that the provisions relating to the affiliation in the Act gave some degree of control to the University over the affiliated Colleges.

11. I do not think there is merit in either of the submissions. The State Government has no such power to give directions under any of the provisions of the Act in matters that are academic. The Syndicate and the Academic Council of the University alone are empowered by law to exclusively deal with academic matters. A mere direction of the Government cannot either supersede the law or substitute what the Regulations, Rules and Statutes of the University has failed to provide.

12. Similarly, none of the conditions which the Government or the University may impose to grant affiliation, provide inter alia, source of power to determine the last date for admission. It does not appear to be practical to make such a provision. The prescription of minimum attendance itself takes note of a contingency like late admissions to colleges and safeguards the need for discipline in the matter of attendance and belated admissions.

13. Therefore my ruling stands.