
(1999) 03 KAR CK 0022
In the Karnataka High Court
Case No : Writ Petition No. 24182 of 1998

Mr. P. Siva Naga Raju

APPELLANT

Vs

Bangalore University and Others

RESPONDENT

Date of Decision : 22-03-1999

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka State Universities Act, 1976 — Section 35, 36

Citation : AIR 1999 Kar 438

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

Bench : Single Bench

Advocate : V.A. Mohan Rangam, for the Appellant; T.P. Rajendra Kumar and M.R. Nayak, for the Respondent

Final Decision : Dismissed

Judgement

G.C. Bharuka, J.—The petitioner was given admission in the Master of Computer Applications Course (in short the "MCA" course) for the academic year 1997-98 by the 2nd respondent--Principal of the R.V. College of Engineering, Bangalore (in short the "Institution") which is affiliated to the respondent Bangalore University (in short the University) and as such is bound by the statutory regulations framed by the said University.

2. The petitioner was admitted to the MCA Course by the respondent -- Institution on 13 -11-1997. On 19-1-1998, statement of admission was sent to the respondent -- University for its approval. On receiving the same, the respondent University verified the academic papers and found that the petitioner is not eligible for being admitted to the MCA course as per the regulations. Accordingly, a communication to the said effect was made to the institution under the University's letter dated 15-6-1998 (Annexure "H"). Subsequently, the petitioner was informed by the College that in view of the communication made by the University he is being discharged. Under these circumstances the present writ petition has been filed with the prayer that the respondents be

directed to approve the admission of the petitioner in respect of MCA course and allow him to continue with the studies.

3. As provided u/s 35 read with Section 36 of the Karnataka State Universities Act, 1976 (in short the "Act") the University has framed the Regulations for MCA course, under the caption "Regulations of Master of Computer Applications (MCA) Course" (in short the "Regulations").

4. Regulation 3 of the Regulations provides for "Eligibility for Admission". It reads thus :--

3. ELIGIBILITY FOR ADMISSION.

"A candidate with any degree of a minimum of 3 years duration of Bangalore University or of any other University equivalent thereto with a minimum of 50% of marks in the aggregate of all subjects including languages, if any, provided further, that the candidate has studied Mathematics as a Compulsory subject for two years at PUC level or HSC (XII Standard) is eligible for admission to MCA Course. Relaxation to SC/ST, Group I be extended as per University norms.

5. The stand of the University is that the petitioner though holds a degree in the 3 years" B.Com Course of the Nagarjuna University (Andhra Pradesh), but since he has not secured 50% marks in aggregate of all the subjects including the languages, he is not entitled for admission to the MCA Course.

6. It is not in dispute that the total of marks secured by the petitioner is 849 out of 1700 in the examination held for the subjects in which the petitioner had appeared in 1st, 2nd and 3rd year of B.Com Course, which is admittedly less than 50%. Therefore, he is not eligible for admission to the MCA Course.

7. Mr. Mohan Rangam, learned counsel appearing for the petitioner, has taken the plea that as per the Regulations of B.Com (Common Core) of the Nagarjuna University at Annexure "G", the marks obtained in Indian Heritage and Culture of 1st year B.Com and Science and Civilisation of 2nd year B.Com. are not taken into consideration for awarding class either in Part I or Part II of the B.Com Degree Examination of that University and therefore the marks obtained by the petitioner in the said subjects should be excluded for determining his eligibility as per the regulations framed by the respondent University.

8. The argument advanced by Mr. Mohani Rangam cannot be accepted for the simple reason that so far as respondent University is concerned, for admission to the MCA course it is bound to be governed by the Regulations framed by it and not by any other University. Since according to the regulations in question framed by the Bangalore University for being eligible to the MCA course the candidate must have secured minimum 50% of marks in aggregate of all subjects including the languages. Therefore, the marks of all the subjects including Indian Heritage and Culture and Science and Civilisation has to be necessarily taken into consideration for determining the eligibility. Interpretation given by the University to the said extent is quite in consonance with the plain

reading of the provision of the Regulations and does not admit of any other construction. Moreover, even if an alternative view is possible to be taken this Court exercising jurisdiction under Article 226 of the Constitution of India cannot purport to do so as held by the Supreme Court in the case of Principal, Patna College, Patna and Others Vs. Kalyan Srinivas Raman, thereof it has been held that, at page 713 -

"Even on the merits, we think we ought to point out that where the question involved is one of the interpreting a regulation framed by the Academic Council of a University, the High Court should ordinarily be reluctant to issue a writ of certiorari where it is plain that the regulation in question is capable of two constructions, and it would generally not be expedient for the High Court to reverse a decision of the educational authorities on the ground that the construction placed by the said authorities on the relevant regulation appears to the High Court less reasonable than the alternative construction which it is pleased to accept. The limits of the High Court's jurisdiction to issue a writ of certiorari are well recognised and it is, on the whole, desirable that the requirements prescribed by judicial decisions in the exercise of writ jurisdiction in dealing with such matters should be carefully borne in mind."

9. Mr. Mohan Rangam, learned counsel appearing for the petitioner, has then submitted that even if the admission of the petitioner was not correct on the ground of eligibility still this court can direct the University authorities to regularise his admission since according to him it will be unequitable to discharge the petitioner from the college after a lapse of about one year. In support of his contention, he has relied on two unreported judgments of this Court in the case of Dr. G. Shiva kumar v. Rajiv Gandhi University of Health Sciences (W.P. No. 5903/98, D/- 26-8-1998 and in the case of R. Suresh v. The Bangalore University W.P. No. 8116, 1996, D/- 17-8-1998 passed by the learned single Judge.

10. In my opinion, this plea as well is not tenable both on facts as well as in law. The petitioner was admitted to the MCA course by the institution on 13-11-1997 obviously in violation of the University Regulations. The college had sent the statement of admission to the University on 19-1-1998. After verification of those documents the University under its communication dated 15-6-1998 (Annexure "H") to the Principal of the institution about ineligibility of the petitioner. Therefore, the petitioner cannot complain that there was any unreasonable delay on the part of the University in informing his ineligibility.

11. The Supreme Court faced with similar situation in the case of Narendra Bahadur Singh and Others Vs. Gorakhpur University and Another, has held that, --

"..... The Gorakhpur University will also take care to ensure that no College affiliated to it shall give admission to the students more than the prescribed number, because the students who are admitted in excess of the prescribed number suffer in the process and it is the duty of the University to take care to

see that the students are not duped by the Colleges. The University must take steps against the erring College with a view to protect the students. It is surprising that immediately after the admissions are over the University has not taken care to check whether any of the Colleges had admitted students in excess of the prescribed numbers. To wake up at the last moment and then to rely on the legal provisions would cause great hardship to the students. We hope and trust that the University will be more careful in future and try to ensure the welfare of the students, a task in which the University in the present case has failed."

12. In my opinion, the law laid down by the Supreme Court with regard to excess admission by the colleges will equally apply to the case of ineligible students though being admitted to any degree course conducted by the University and the University is duty bound to take immediate steps to identify ineligible students and take necessary action against defaulting colleges guilty of giving such admissions, in terms of the directions of the Supreme Court.

13. In so far as reliance placed on the first case is concerned the learned single Judge had found that the petitioner therein was admitted by the college keeping in view the regulations made available to it till the time of admission and therefore, the Court could not find any fault either with the student or college. So far as the 2nd case is concerned, the Court had found that the equities had intervened forcing completion of course by a student since it found that the petitioner had joined the course during the academic year 1985-86 and the University had found him ineligible in the year 1986 itself and accordingly communicated to the College. Aggrieved against the decision of the University, he filed a writ petition questioning the decision of the University. Though the learned single Judge, at the first instance granted stay order but subsequently refused to continue the same. However, on appeal, in W.A. No. 1268/86 (D/- 17-6-1986) the Bench disposed of the appeal permitting the petitioner to continue with his studies till disposal of the writ petition, by the time disposal whereof, the petitioner completed his course long back, thus, resulting in fait accompli. Therefore, the two decision are not available to the petitioner.

14. In the case of Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others, , dealing with the problem of illegal admissions by the Educational Institutions in para 5 of the judgment it was clearly warned by the Apex Court that at page 582.--

"5. We find that this situation has emboldened the erring authorities of educational institutions of various States to indulge in violating the norms of admission with impunity. They seem to feel that the Courts will leave the admissions intact, even if the admissions are granted contrary to the rules and regulations. This is most unsatisfactory of affairs. Laws are meant to be obeyed, not flouted. Some day, not distant, if admissions are quashed, for the reason that they were made wrongly, it will have to be directed that the names of the students who are wrongly admitted should be removed from the rolls of the

institution."

15. Despite the said warning held out by the Supreme Court more than a decade back and in complete violation of repeated specific instructions issued by the respondent University, the institution like the respondent College, as a matter of regular practice, has been giving admissions to ineligible candidates with all impunity. This is quite evident from the facts of the Writ Petition No. 25373 to 25375 of 1994 and 9943 and 9944 of 1993. The respondent College possibly felt emboldened by the fact that on being approached in Writ Petition, this Court had been passing ex parte interim orders permitting such ineligible students to continue with their studies in the courses in question. I also find that to perpetuate such illegalities, legal notices (Annexure G") also had been issued to the University authorities threatening them of legal actions in case they fail to approve of such illegal admissions.

16. In the case of A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another, it has been held that (at page 1497):--

"Sri Venugopal suggested that we might issue appropriate directions to the University to protect the interests of the students. We do not think that we can possibly accede to the request made by Sri Venugopal on behalf of the students. Any direction of the nature sought by Sri Venugopal would be in clear transgression of the provisions of the University Act and the Regulations of the University, We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the Court to disobey the laws".

17. In the case of Rajendra Prasad Mathur (supra), the Supreme Court having noticed the sinful acts committed by such institutions like the respondent-College has held that the University concerned should take appropriate action against such erring institutions who are in the habit of admitting ineligible students. In my opinion, it is high time when the University Authorities should be alive and prompt in taking appropriate action against the respondent-College like cancellation of affiliation for which they are statutorily bound.

18. For the aforesaid reasons it is held that the petitioner is not entitled to the reliefs as claimed in the writ petition which is accordingly dismissed.

19. Let the Registrar (General) of this Court ensure sending the copies of this order to all the Universities in the State under registered post with acknowledgment due.