

(2018) 12 KAR CK 0001

In the Karnataka High Court

Case No : Writ Petition No. 52134, 47231, 47246, 47344, 49848, 50415, 50416, 50417, 52548, 52138, 53793, 53802 Of 2018

Ms. Asha And Ors

APPELLANT

Vs

Principal S.E.A. College Of Engineering And Technology And
Ors

RESPONDENT

Date of Decision : 03-12-2018

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2018) 12 KAR CK 0001

Hon'ble Judges : Krishna S.Dixit, J

Bench : Single Bench

Advocate : Dr. S Arumugham, Santhosh S Nagarale

Final Decision : Dismissed

Judgement

1. All the petitioners are the students of various Engineering courses of semester and they have been prosecuting their studies in various respondent-colleges that are affiliated to the 1st respondent-University which has been established under a State enactment. The grievance of these petitioners is against denial by the respondent-University, the permission to write the ensuing examinations of varying semesters on the ground that they have not cleared the examinations in certain subjects in the preceding semesters.

2. Since all the writ petitions involve similar fact matrix and almost identical questions having the flavour of law, the same are taken together for consideration with the concurrence of both the learned counsel appearing for the petitioners and the learned panel counsel representing the respondent-University, notice to 2nd respondent-Colleges having been dispensed with.

3. Petitioners grieve that the stand of the respondent-University would block academic movement of the petitioners to the concerned next semesters/years of the course. Therefore the petitioners have sought for a Writ of Mandamus to the

respondent-University to allow them to take admission in the concerned respondent-Colleges as regular students for the next relative semester of the course.

4. The learned counsel for the petitioners fairly admits that going by paragraph 150 B 7 of the CHOICE BASED CREDIT SYSTEM (CBCS) REGULATIONS GOVERNING THE DEGREE OF BACHELOR OF ENGINEERING/TECHNOLOGY (B.E./B.Tech.) promulgated by the respondent-University, the petitioners would not be able to seek the writ remedy as sought for in these writ petitions. However, he submits that the paragraphs in the said Regulations have to be construed liberally or read down in favour of the petitioners so that all of them would pass the bridge.

5. The learned counsel for the petitioners brings to the notice of Court a research paper on 'Horizontal and Vertical Alignment' presented by two researchers Betsy Case, Ph.D and Sasha Zucker in Beijing, China at the China-US Conference on Alignment of Assessments and Instruction in July 2005 to contend that these new concepts should be read into the Regulations in question, inasmuch as they arise from the wisdom gathered from across the globe.

6. The learned senior panel counsel for the respondent-University makes submission resisting the writ petitions and states that these Regulations having been promulgated with a lot of academic experience and wisdom, cannot be construed or read down in such a way that regardless of prescribed minimum academic performance, all the students should be allowed to cross the bridge as submitted by the petitioners' side. He points out that ordinarily the Writ Courts respect the academic standards prescribed by the University in their wisdom, in the form of these Regulations and that no special case having been made out to deviate from this judicially evolved norm, the petitioners are not entitled to any relief.

7. The learned panel counsel for the University submits that he does not dispute whatever wisdom the concept of Horizontal and Vertical Alignment which the research paper pressed into service by the petitioners side; however, he hastens to add that unless those concepts are incorporated by the University by way of promulgation of policy in the form of Regulations, the same cannot be read into the present Regulations.

8. I have heard the learned counsel for the petitioners and the learned panel counsel for the University. I have perused the petition papers and the Research Paper on Horizontal and Vertical Alignment in the light of the University Regulations and the decision dated 08.12.2017 made by a Co-ordinate Bench of this Court in W.P.No.55228/2017 (Edn-Res).

9. The concept of Horizontal Alignment and Vertical Alignment stated to be obtaining in the field of education involve the agreement between a set of content standards and assessment used to measure the standards of the students, ordinarily prosecuting studies at the initial levels of schooling. The

Research Paper now pressed into service discusses these concepts, at the elementary level. These Researchers say: Horizontal Alignment means 'the degree to which an assessment matches the correspondent content standards for a subject area at a particular grade level' and the Vertical Alignment means 'the alignment of different parts of an entire education system'. The Paper in short states that by employing the Horizontal and Vertical Alignments, the policy makers can take into account many aspects of an education system that have a bearing on student-achievement and that ultimately, improving student-achievement depends on both Horizontal and Vertical Alignments in an education system.

10. The Research Paper which the petitioners bank upon is in the light of a Legislation called 'No Child Left Behind Act of 2001' enacted by the Congress (Parliament) of the United States of America to mitigate the hardship of disadvantaged students supporting Standards-Based Education Reform on the premise that setting high standards and establishing measurable goals could improve individual outcomes in education. The Act required constituent States of U.S.A. to develop assessments in basic skills. To receive federal school funding, states had to give these assessments to all students at select grade levels. This Act underwent a kind of Legislative improvement by the enactment of 'Every Student Succeeds Act, 2015'. Such Acts or other statutory instruments that favour the students who otherwise would lag behind in academics could be desirable, but the Writ Court has its own constraints and limitations. The matters of this kind are best left to wisdom of the campus.

11. The invocation, in these writ petitions, of the concepts of Horizontal and Vertical Alignments that are allegedly to some extent enacted in the two Legislations mentioned above in the United States of America, is misconceived because going by the content of the Research Paper pressed into service, the idea is ordinarily confined to the students of tender age schooling; thus the level of education at the University campus may not be the focal point. Secondly, the concepts in question that are being experimented on a foreign soil may not be much suitable or act to the socio-economic and educational conditions that obtain in our society. This again, is a matter for the policy makers having the expertise and therefore the Courts have to maintain distance from the same. Consequently, these concepts per se cannot be read into the Regulations in question.

12. The learned counsel for the petitioners contends that going by the content of Articles 14 and 16 of the Constitution of India, these Regulations either have to be read down or have to be struck down so that there shall be no impediment for all the students to pass through and to the next higher levels, regardless of their performance in the qualifying examinations that are prescribed by the University, is too far fetched an argument. That virtually amounts to abolishing the Screening Tests to decide whether student should be promoted to next higher level. I am afraid that this cannot be done, especially when no challenge is laid to

the Regulations.

13. The contention of the panel counsel for the University that the students which do not fall within the standards and parameters prescribed by paragraph 150 B 7 of the Regulations are not entitled to the benefits flowing therefrom, has a lot of force. For knowing what this paragraph states, the same is reproduced hereunder:

"150B 7 PROMOTION AND ELIGIBILITY FOR THE EXAMINATION 150B 7.1 There shall not be any restriction for promotion from an odd semester to the next even semester, provided the student has fulfilled the attendance requirement.

150B 7.2 A student shall be eligible for promotion from an even semester to the next odd semester (i.e. of the next academic year) if the student has not failed in more than four heads of passing of the immediately preceding two semesters and has passed in all the subjects of all the lower semester examinations. A theory or practical shall be treated as a head of passing.

Illustrations

a. A student seeking eligibility to 3rd semester should not have failed in more than 4 heads of passing of first and second semesters taken together.

b. A student seeking eligibility to 5th semester should have passed in all the subjects of 1st and 2nd semesters and should not have failed in more than 4 heads of passing of third and fourth semesters taken together.

c. A student seeking eligibility to 7th semester should have passed in all the subjects upto 4th semester and should not have failed in more than 4 heads of passing of 5th and 6th semesters taken together".

14. A Co-ordinate Bench of this Court in W.P.No.55228/2017 (Edn-Ex) in the case of Sri Nikhil.Y vs. Visvesvaraya Technological University & others vide judgment dated 08.12.2017 has ruled that the students who do not fall within the parameters of University Notification concerning One-time Exit Policy cannot draw milk therefrom. The very same paragraph of the Regulations in question had fallen for consideration in the said case. What is so laid down, equally applies to these petitioners as well. Admittedly, as the Regulations now stand, the petitioners do not fall within the parameters prescribed thereby.

15. In the above circumstances, these writ petitions fail. However, this order will not come in the way of the respondent-University evolving a policy like 'One-time Relaxation Scheme' in its wisdom for the benefit of the students like the petitioners, if it so desires.

No costs.