
(2017) 03 KAR CK 0010
In the Karnataka High Court
Case No : Writ Petition No. 20835 of 2015

Nargund College of Pharmacy

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 17-03-2017

Acts Referred:

Citation : (2017) 2 AirKarR 651

Hon'ble Judges : S. Sujatha, J.

Bench : Single Bench

Advocate : Abhishek Malipatil, Advocate, for the Petitioner; Vijayakumar Y.H, AGA, for the Respondent No. 1; N.K. Ramesh, Advocate, for the Respondent No. 2

Final Decision : Allowed

Judgement

S. Sujatha, J.—The petitioners are aggrieved by the non-approval of the admission of the petitioners students to B-Pharma Course from the academic year 2013-14 in the 1st petitioner-Institution.

2. It is contended that the petitioner No.1 is a premier Institution established in the year 2005 imparting education to the students. The Institution was permitted to start Pharmacy Courses (B-Pharma, D-Pharma and M-Pharma courses) by the Pharmacy Council of India and AICTE. The Courses of B. Pharma, M. Pharma and D. Pharma offered by the petitioner- Institution is affiliated to the Rajiv Gandhi University of Health Sciences-Respondent No.2 for the academic year 2013-2014. The respondent No.2-University having fixed the last date for admission as 30.7.2013, it is contended that the 1st petitioner- Institution due to difficulties faced with the web-portal of the respondent-University was unable to upload the names of the 45 students including that of the petitioner Nos.2 to 6 herein on to the Web-portal of Respondent No.2- University. Several representations made to respondent No.2 not being responded, the petitioners had approached this Court in W.P. No. 18627-656/2014. This Court vide order dated 28.4.2014 directed the respondent No.2 to consider the approval of the admissions of the students for the academic year 2013-2014 including that of the

petitioners on payment of penalty of Rs.2000/- per student, subject to meeting eligibility criteria. The 2nd respondent-University issued an endorsement dated 18.12.2014 (Annexure-A) holding that on verification of the Passport and Visa of the students, their entry into India, is shown to be after the last date of admission i.e. on 30.7.2013. Hence, 2nd respondent-University proceeded to direct discharge of the said students. Aggrieved by the said communication/order at Annexure-A, the petitioners have filed these petitions.

3. Learned Counsel Sri. Abhishek Malipatil appearing for the petitioners would contend that the representations issued by the petitioners and the affidavit statement to the University clearly goes to show that the petitioners-students were present in India before 30.7. 2013 and have attended the classes in the 1st petitioner-Institution. The non-consideration of the same is arbitrary and illegal. In W.P. No. 18627-656/2014 disposed of on 28.4.2014, this Court has directed the respondent-University to approve the admissions of the petitioners subject to payment of penalty in a sum of Rs.2000/- per student and the petitioners meeting other academic eligibility criteria

4. The objections now raised by the respondent-University is contrary to the directions issued by this Court. No objections can be raised by the University other than the academic eligibility criteria. It is further submitted that by virtue of the interim order passed by this Court, the students have completed their Course and appearing for the examination and their results are also announced. At this stage, non- approval of the admission of the students by the 2nd respondent-University would be unreasonable.

5. It is also submitted that in pursuance to the order/Communication dated 18.12.2014 (Annexure-A), petitioner No.1 has submitted explanation enclosing copies of the previous visas of the students, which clearly shows that they were present in India before 30.7.2013. This material aspect was also not considered by the 2nd respondent-University.

6. Learned Counsel Sri. N.K. Ramesh appearing for respondent No.2-University would contend that the regulations prescribing calendar of events according to which the commencement of Course was from 30.7.2013. The passport/Visa of the students indicates the date of entry into India on 7.3.2014, subsequent to the last date for commencement of Courses. Whereas the Courses have been commenced from 30.7.2013. The technical defect, if any, in uploading, other modes for submission of the admission list was opened, the University cannot relax the admission of the students beyond the time prescribed i.e., 15.8.2013. Considering these factual aspects, Annexure- A was issued. Approval of the admission of the petitioners was thus rejected.

7. Heard the learned counsel for the parties and perused the material on record.

8. Prima facie, it is evident that the petitioners herein have approached this Court in W.P. No.18627- 656/2014 disposed of on 28.4.2014, directing the 2nd respondent-University to approve the admissions of the petitioners and allow

them to take examinations subject to payment of penalty in a sum of Rs.2000/- each and petitioners- students meeting other academic eligibility criteria. The objections now raised by respondent No.2- University that on verification of Passport/Visa students were not in India at the time of admission, they entered India only on 7.3.2014. As such, their admissions cannot be approved is not acceptable primarily for the reason that in the first round of litigation, there was a direction to the University to approve the admission of the petitioners subject to academic eligibility criteria.

9. Further, it is the case of the petitioners that they were in India before 30.7.2013 and to substantiate the same, they have placed before the University their passport/Visa. This factual aspect has not been properly appreciated by the University to reject the approval of the admissions. This issue cannot be re-opened now at this stage by the University.

10. Petitioners by virtue of the interim order passed by this Court have appeared for the classes and completed their Course. In such circumstances, it is appropriate to direct the respondent No.2-University to approve the admissions of the petitioners. However, as pointed out by the learned counsel appearing for the respondent No.2- University, there is lapse on the part of the petitioner No.1- College in not strictly adhering to the Rules and Regulations of the University, while admitting the students to the Course. It is the interest of the students which has to be given paramount consideration. In the fitness of things, the approval of the admissions of the petitioners shall be made by respondent No.2- University subject to payment of penalty of Rs.5000/- to each student and this penalty has to be borne by the first petitioner-College.

11. Writ petitions are allowed. The impugned order at Annexure-A is set aside.