

(2016) 10 KAR CK 0044
In the Karnataka High Court
Case No : Writ Petition No. 12655 of 2016

Niteeshkumar B.N.

APPELLANT

Vs

Vishweswariah Technological University

RESPONDENT

Date of Decision : 06-10-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 AirKarR 252

Hon'ble Judges : B. Veerappa, J.

Bench : Single Bench

Advocate : Sri. Sharath S. Gowda, Advocate, for the Petitioner; Notice Served on, But Unrepresented, for the Respondent No. 2; Sri. Santosh S. Nagarale, Advocate, for the Respondent No. 1

Final Decision : Allowed

Judgement

B. Veerappa, J. - The petitioner who is pursuing in II Year in Bachelor of Engineering Course (Electronics and Communication Engineering) in the 2nd respondent college in the year 2010 is before this Court praying for a writ of mandamus directing the respondents to consider his representation vide Annexure-H and to announce the results of the 7th and 8th Semesters B.E. examination.

2. It is the case of the petitioner that he had joined the 2nd respondent-College in the year 2010 under "Lateral Entry Scheme" after completing his "Diploma Course" in "Electronics and Communication" from R.N. Shetty Polytechnic, Belgaum. Upon his admission, he prosecuted and completed his 2nd and 3rd Year of Engineering Course. However, during 3rd and 4th semesters, he was unable to clear one of the subjects of the 4th semester viz., "Signals and System" (Subject Code-10EC44) and he was "permitted to carryover" the said subject to the 3rd year.

3. As per the Rules governing the Engineering Course, the students studying in

the B.E. Course are permitted to have certain backlogs, in case of difficulty in clearing/passing the subject during that academic term in order to facilitate their progressing into the next term and the carried over subject can be attempted by the students. Further there are particular subjects which the students can carry over till a certain stage and not beyond. The subject "Signals & System" of the 4th Semester being one such subject, the student is expected to complete the said subject before taking up the 7th and 8th Semesters Engineering Course.

4. It is the further case of the petitioner that he having attempted the subject "Signals & System" in the normal course in the 4th Semester Examination and also being allowed to carry over to the 6th Semester, he attempted to clear the exam once again in the 6th Semester. Again the petitioner was unsuccessful in his attempt to pass the subject "Signals & System" by a small margin of marks which he was confident that he had done fairly well. This let him not being allowed to take up the Final Year of the B.E. Course as the respondent-University insisted on clearing the said subject. It is his further case that he and other students of various other Engineering Colleges faced similar difficulty in pursuing the Final Year of the B.E. Course and due to their request for challenge valuation not being accepted by the University, certain writ petitions were filed before this Court in W.P.No.47662/2014 and connected cases in regard to their continuation of their studies pending examination of the issue of denial of challenge valuation by the University. In the said writ petitions, an interim order dated 10.10.2014 was granted permitting the petitioner to prosecute the Final Year Engineering Course, a copy of which is produced as Annexure-A and a copy of the representation made by the students of Engineering Course requesting the University to give benefit of challenge valuation is produced as Annexure-B. Pursuant to the said interim order, they were able to continue with the Final Year Engineering Course.

5. It is further submitted that this Court upon consideration of the issues raised in the said writ petition and connected cases, on 26.11.2014 disposed of the writ petitions holding that students, who appeared for the examination in pursuance of the interim order, cannot as a matter of right seek for valuation of the papers. The valuation of the papers of the regular semester, if they have appeared for the examinations would be made only if such of those students, who have applied for the Challenge valuation, succeed in the Challenge Valuation for the subjects of previous semesters, thereby would get the eligibility for progressing in the semester and benefit would be given to the students, who had been admitted to the course prior to the year 2011 and who have approached this Court.

6. It is the further case of the petitioner that he was admitted to the Course after the year 2011 and he is yet to complete the process of the challenge valuation and the students, who have not completed the term of 7th Semester, were not allowed to take the Final Examination. In pursuance of the interim order passed by this Court, they appeared for the Final Year Examination i.e., 7th Semester in

the year 2014 even though the University has not completed the process of challenge valuation. Despite the same, he had applied for challenge revaluation for the subject "Signals & System" and independently appeared in the examination in the month of December 2014 in respect of the said subject "Signals & System" and ultimately the University announced the results in the month of March, 2015 and thereby the petitioner was declared as passed.

7. It is the further case of the petitioner that on completion of the 7th Semester and there being no prohibition as per the regulations to attend the 8th Semester of the Final Year B.E. Course, he prosecuted the 8th Semester and he was also permitted to take up the final examination of the final semester (8th Semester) in the month of May/June 2015. Presently, the petitioner has prosecuted the entire term of the Final Year Engineering Course and appeared in the final Examination of the 7th and 8th Semesters and though he has completed the entire term of B.E. Course, his results of the Final Year Course have not been announced by the University leading to a situation whereby his academic qualification of the B.E. Course has remained inconclusive. Therefore, he approached the respondents by way of representation on 28.12.2015 to announce the results of the 7th and 8th Semester of B.E. Course by considering his representation etc.

8. The respondents filed objections specifically contending that the petitioner was unsuccessful in the 4th Semester subject of "Signal and System" and as per the Regulations Governing Academic Programme, he is eligible for 7th Semester, if he clears in all the subjects up to 4th Semester in terms of "OB 7 : which depicts that a candidate seeking eligibility to 7th Semester should have passed in all the subjects up to 4th Semester and should not have failed in more than four heads of passing of 5th and 6th Semesters taken together and in spite of the same, the petitioner did not clear the 4th Semester and hence, he was ineligible for the 7th Semester. However, he continued his 7th and 8th Semesters on the strength of the interim order passed by this Court.

9. It is also contended in the statement of objections by respondent No.1 that the petitioner pursued his 7th Semester on the basis of the interim order passed by this Court in Writ Petition No.55831-852/2014 and therefore, the 1st respondent herein-University permitted the petitioner to pursue the 7th and 8th Semesters. Since he did not clear in the challenge valuation, he is relegated back to 4th Semester and he will be ineligible to 7th Semester. Therefore, no fault can be assigned on the part of respondent No.1-University for not announcing the results of the petitioner. Subsequently, he appeared for the supplementary examinations conducted by respondent No.1 in the month of January 2015 and was successful and hence, he was eligible for promotion to 7th semester for the academic year 2015-16.

10. I have heard the learned Counsel for the parties to the lis.

11. Sri. Sharath S. Gowda, learned Counsel for the petitioner vehemently

contended that denial of results of Final Year B.E. Course even after completing the 4th Semester subject of "Signal & System" independent of the result in the challenge valuation is unjust and unreasonable; That the disability accrued to the him having been cured, it would be harsh and inequitable to deny the announcement of results of the Final Year B.E. Course; That though by virtue of interim orders passed by this Court, he was permitted to attend the 7th and 8th Semesters B.E. Course and also to take the examinations, there was no impediment on the part of respondent-University to announce the results. Therefore, the whole approach of the University is contrary to the material on record and regulations. Therefore, he sought to allow the writ petition.

12. Per contra, Sri. Santosh S. Nagarale, Learned Counsel for the University sought to justify the impugned action contending that unless he completed the 4th Semester Examination, he cannot be permitted to appear for 7th and 8th Semesters. Therefore, he sought for dismissal of the writ petition.

13. In view of the rival contentions urged by the learned Counsel for the parties, the only point that arises for consideration is :

"Whether the petitioner has made out a case for issue of writ of mandamus directing the respondents to consider his representation-Annexure-H and announce the results of the 7th and 8th Semesters B.E. Examinations attempted by him in the facts and circumstances of the present case ?

14. I have given my thoughtful consideration to the arguments advanced by the learned Counsel for the parties and perused the entire material on record.

15. It is an undisputed fact that the petitioner consequent upon admission to the 2nd Year Bachelor of Engineering Course (Electronics and Communication) in the 2nd respondent-College, he has prosecuted and completed the 2nd and 3rd Year of Engineering Course. However, during the 3rd and 4th Semesters, he was unable to clear one of the subjects of the 4th Semester viz., "Signals & System". It is also not in dispute that subsequently by an interim order passed by this Court in Writ petition No. 47664/2014 and connected matters, he had appeared for both 7th and 8th Semesters examinations but he could not succeed in 4th Semester examination in the subject "Signal and System". The fact remains that the petitioner independently appeared in the examination held in the year 2014 in respect of the subject "Signal and System" and the University permitted him to appear independently in the said examination and announced the results by the University in the month of March 2015 thereby declaring that he has passed the subject "Signal and System" as per Annexure-E2 on 28.3.2015. Therefore, it is not open for the respondent-University to drag the petitioner further one more year to study the 7th and 8th Semesters of Final Year B.E. Course when he independently has appeared and passed the examination in the month of March 2015. Therefore, the point raised in the present writ petition has to be answered in the affirmative holding that the petitioner has made out a case for issue of writ of mandamus as prayed for.

16. Though an attempt is made by the learned Counsel for the University that he has not completed the 4th Semester examination and therefore, he is not eligible to attend the 7th and 8th Semesters, it cannot be accepted that in pursuance of the interim order passed by this Court on 10.10.2014, he was permitted to appear for the examination and admittedly, the said interim order granted has already reached finality and no application for vacating the said stay was made. Hence, in pursuance of the interim order granted by this Court, he could not succeed in the examination. But the fact remains that independently he has appeared for the examination of Gate subject "Signals & System" which was not prohibited by the University and he was allowed to write the examination. The University having permitted him to appear independently for said subject, he was successful in the month of March 2015 and now it is not open for the learned Counsel for the respondent-University to contend in other way.

17. In view of the aforesaid reasons, writ petition is allowed. The 1st respondent-University is directed to consider the representation dated 28.12.2015 of the petitioner vide Annexure-H sympathetically taking into consideration the subsequent development that he has passed the subject "Signal and System" in the Final Year B.E. Examination in the month of March 2015 and evaluate the answer scripts of the petitioner of 7th and 8th Semesters and announce his results in accordance with law expeditiously.