

(1995) 11 KAR CK 0048

In the Karnataka High Court

Case No : W. As. No's. 3729, 3730, 3731, 3591, 4238 and 4239 of 1995

P.N. Bhadra and etc.

APPELLANT

Vs

Registrar, University of Agricultural Sciences, Bangalore

RESPONDENT

Date of Decision : 21-11-1995

Acts Referred:

Citation : AIR 1997 Kar 100 : (1995) ILR (Kar) 3487 : (1995) 6 KarLJ 605

Hon'ble Judges : M.L. Pendse, C.J.;B. Padmaraj, J

Bench : Division Bench

Advocate : U.L. Narayana Rao for Laxman T. Mantagani, V.A. Mohanrangam and K. Gopal Hegde, for the Appellant; H.K. Vasudeva Reddy, for the Respondent

Judgement

M. L. Pendse, C.J

1. This group of appeals unfurls facts which make sad reading. The method adopted by the appellants to secure admission to the University of Agricultural Sciences indicates to what extent the students would indulge in preparing false marks sheet to secure admission. The facts speak for themselves.

The University of Agricultural Sciences Act, 1963 ("the Act"), was passed by the Mysore State Legislature to establish and incorporate a University for the development of agriculture, animal husbandry and allied sciences in the State of Mysore. In accordance with the provisions of the Act, the University of Agricultural Sciences, Bangalore, was established. The University provides for securing of Degrees in B.Sc. (Agriculture), B.Sc. (Horticulture), B.Sc. (Sericulture) etc., and the normal duration for obtaining degree is a period of four years. The candidates to be eligible for admission for any of the degree programmes are required to fulfil the following requirements:

"(a) A pass in two-year PUC examination of the Karnataka Pre-University Board of an equivalent examination with the combination of Physics, Chemistry, Mathematics and any one of the following subjects:--

Biology, Botany, Zoology and Agriculture,

or

Physics, Chemistry, Biology with any one of the following subjects :--

Mathematics and Agriculture.

(b) Should have obtained at least 55 per cent marks in the second year of the two year Pre-University examination or its equivalent. However, this condition will not apply to students belonging to Scheduled Castes, Scheduled Tribes and Group "A" (Backward Tribes) for whom a mere pass would be enough."

2. For the sake of convenience, the facts in Writ Appeal No. 3729 of 1995 filed by P. N. Bhadra are set out. The facts of the case of the other appellants are almost identical with some variations here and there. The University had prescribed Application Form for admission to Bachelor Degree Programmes for the year 1993-94. P. N. Bhadra filed an application, inter alia, claiming to have secured total marks of 403 out of the aggregate marks of 600. The aggregate marks of 600 are for six papers -- Kannada, English, Physics, Chemistry, Mathematics and Biology and 100 marks are allotted for each of the subjects. Bhadra claimed to have passed the examination by appearing for Kannada and English papers in March 1991, for Physics and Mathematics in April 1992 and for Biology in September 1991 and for Chemistry in 1992. Along with the Application Form, Bhadra produced a certificate issued by the Education Department, Government of Karnataka, and which certified that Bhadra had passed the Second Year Pre-University Examination with the marks set out therein. The certificate bears the facsimile signature of the Joint Director, Pre-University Education, Bangalore, and the signature of the Principal of Shree Veerendra Patil Pre-University College. The certificate also bears the signature of Bhadra. The certificate sets out that in the papers of Physics, Chemistry, Mathematics and Biology, Bhadra had secured 85, 84, 73 and 76 marks respectively. The marks secured in these four papers are taken into consideration for eligibility to admission for the Degree Course. As mentioned hereinabove, the candidate is required to have secured at least 55% marks and the marks secured by Bhadra were . obviously more than 55%. The Application Form requires to be duly signed both by the candidate and parents with a declaration attached. The declaration sets out that the information given in the application is true to the best of knowledge and belief of the candidate and the application is made with the consent and approval of parents/guardian. Bhadra, on the strength of this application, was interviewed and had secured admission for Degree Course in the year 1993-94.

3. A. news item appeared in the local newspaper of Shimoga Town that some students had secured admission in the Agricultural College, Shimoga, by producing fake Pre-University Marks Cards. The local police undertook investigation and reported to the University that some students did secure admission by, producing false Marks Cards. Upon the receipt of the report, the University decided to take up verification of all Pre-University Marks Cards

produced by alt students. The University requested the Director of Pre-University Board to take up the task of verification of all the Pre-University Marks Cards and to check the marks entered therein with reference to the original Marks Register maintained by the Board. Upon detailed verification of all the Marks Cards of all the students, the Pre-University Education Board found that 52 students studying in various courses in the University had secured admission by producing bogus Marks Cards and requested the University to take appropriate action against the students. The University, thereupon, served Show Cause Notices on the students calling upon them to explain why their admission should not be cancelled. The students filed replies and the University not being satisfied, by notification dated November 21, 1994, cancelled the admission of all the 52 students.

The students approached this Court by filing group of writ petitions to challenge the action of the University and the learned single Judge, by order dated December 20, 1994, quashed the notification on the ground that the University failed to give opportunity to the students to defend the allegations made against them. The learned Judge directed that the University should hold an enquiry and complete the same within 8 weeks. The students were directed to file objections to the Show Cause Notices, if not already filed, and thereafter appear before the Registrar of the University to face the enquiry.

4. The Agricultural University has framed Statutes called University of Agricultural Sciences Statutes, 1964, in exercise of powers conferred under S. 40 of the Act. Statute 11 deals with the subject of disciplinary action and sub-clause (1)(a), inter alia, provides that a Committee consisting of Head of Divisions with the Dean or an Officer nominated by the Vice-Chancellor as Chairman, would deal with the disciplinary cases involving students. In accordance with the Statute, the University constituted an Enquiry Committee presided over by the Registrar and consisting of the Directors of Instruction and Directors of Research and Extension of various faculties. The High Power Committee consisting of six members met on various dates and gave full opportunity to the students as well as the Advocates who represented some of the students to meet the charge. The Enquiry Committee permitted the students and the Advocates to examine the relevant records, that is, the original Marks Cards produced by the students and the Marks Cards produced by the Pre-University Education Board as well as the Marks Cards forwarded by the Board to the respective Colleges, from which the students passed their Pre-University Examination. As demanded by some of the students, Akhil Mirza, Section Officer of the Pre-University Board, Bangalore, remained present at the enquiry. The Enquiry Committee, after considering the objections raised by some of the students, submitted report on March 8, 1995, recommending to the University for expelling 22 students who had secured admission in various Degree Programmes of the University by production of bogus Marks Cards. The Committee recorded the conclusion that these 22 students had played fraud in obtaining fake Marks Cards to secure admission to the University. The Committee felt that irresistible conclusion is that the manipulation has taken place after the Marks Cards were forwarded to the

College and before producing along with the application. The report was accepted by the Vice-Chancellor and on March 13, 1995, notification was issued that the admission of the students stands cancelled with immediate effect. A separate notification came to be issued in respect of each of the 22 students and these notifications are identical in terms. The notification in respect of P. N. Bhadra recites that the marks secured by Bhadra, as entered in the original Marks Register of the Pre-University Board, tallied with the marks reported by the Principal of the H.K.E.S. Pre-University College where he had studied up to the P.U.C., which establishes that the candidate had submitted fake Marks Card at the time of admission to the Degree Programme. The Marks Card submitted by the candidate does not tally with the marks secured by the candidate as per the Pre-University Board Registers and the records maintained in the College where he had studied.

5. To complete the factual data, it would be convenient to set out the marks secured by Bhadra in accordance with the records maintained by the Pre-University Education Board, Bangalore. In the subjects of Physics, Chemistry, Mathematics and Biology, Bhadra had secured 35, 34, 37 and 36 marks respectively, totally 142 marks. The marks secured by Bhadra were, therefore, obviously far less than 55% required for admission to the University Course. The record maintained by Shree Veerendra Patil Pre-University College of Arts, Science and Commerce, from which Bhadra had appeared for Pre-University Examination, indicates that the computerised statement received from the Pre-University Education Board, Bangalore, sets out that the marks secured by Bhadra in the Subjects of Physics, Chemistry, Mathematics and Biology were 35, 34, 37 and 36 respectively. In other words, the Register maintained by the Pre-University Education Board and the statement forwarded to the College set out the exact marks secured by Bhadra. The certificate of the Marks Card produced by Bhadra at the time of filing application for admission to the University, on the other hand, sets out that Bhadra has secured 85, 84, 73 and 76 marks respectively in the Subjects of Physics, Chemistry, Mathematics and Biology. In other words, Bhadra claims to have secured 318 marks out of 400 and which is far more than 55% minimum required for admission to the University Course. The report of the Enquiry Committee was that the Marks Card produced by Bhadra was obviously a fake and bogus Marks Card and Bhadra had secured admission even though not eligible in accordance with the University Rules.

6. The students, whose admissions were cancelled, including the appellants in this batch of appeals, preferred with petitions before the learned single Judge challenging the action of the University in cancelling their admission to various Degree Courses. The learned single Judge, by impugned judgment dated August 25, 1995, came to the conclusion that the action of the University cannot be faulted in respect of the appellants. The learned Judge came to the conclusion that each of the appellants had produced Marks Card, which was not genuine, and had secured admission by adopting fraudulent means. The learned Judge did not accept the contention of the appellants that the enquiry conducted by the

University was in breach of principles of natural justice. The decision of the learned single Judge is under challenge. As the learned single Judge has disposed of all the writ petitions by common order, it would be convenient to dispose of all these appeals by this judgment.

7. Mr. Narayana Rao, learned counsel appearing for some of the appellants, submitted that the learned single Judge failed to appreciate that the Enquiry Committee did not strictly follow the principles of natural justice. The learned counsel submitted that it was incumbent upon the Enquiry Committee to produce the Director of Pre-University Education Board, Bangalore, and the Principal of Sree Veerendra Patil Pre-University College, to depose as to how the disputed Marks Card was issued by the Board. The learned counsel submitted that before the Enquiry Committee, an application was made to tender the Director of the Pre-University Education Board for cross-examination and as the Committee did not concede to the demand, the principles of natural justice were violated. It is impossible to accede to the submission of the learned counsel. It is undoubtedly true that the students and some of the Advocates, who appeared before the Committee, demanded that the Director of Pre-University Education Board or his authorised person should be directed to produce the record and should be tendered for the purpose of cross-examination. In accordance with the request, Akhil Mirza, Section Officer, Pre-University Education Board, remained present on behalf of the Director. None of the students or Advocates then thought it wise to cross-examine the Officer deputed by the Director of Pre-University Education Board. We are unable to appreciate how it was incumbent upon the Enquiry Committee to examine the Director of the Pre-University Education Board and the Principal of the College. Mr. Narayana Rao submitted that Bhadra was an innocent student and produced the Marks Card handed over by the College and therefore it was not proper for the University to cancel his admission unless it was established that Bhadra was hand-in-glove in preparing fake Marks Card. It was submitted that though the signature of the Joint Director is a facsimile signature, the Principal of the College has signed the document and it could not be imagined that the Principal had signed the document without checking the accuracy of the same. The learned counsel submitted that in case the College has issued an erroneous Marks Card, for which the student is not responsible, then it is not fair that for the mistake of the College, the student should be deprived of a right to continue the education in the University. The submission, in our judgment, is entirely misconceived. In the first instance, it is impossible even to suggest that the marks set out in the Marks Card produced by the candidate are correct marks. Indeed, it became difficult for the learned counsel to suggest that the marks set out in the Marks Card are accurate on the face of the record produced by the Pre-University Education Board and the computerised statement received by the College. The claim of the learned counsel that the student is innocent and should not be made to suffer for the erroneous Marks Card issued by the College, is not correct for more than one reason. In the first instance, it is impossible to imagine that but for the active participation of the student, a false

Marks Card will be issued by the College Authorities. It is possible that the Principal may not be aware that a false Marks Card is prepared by the subordinate staff and the Principal, in good faith, must have signed all the Certificates tendered by his subordinates. It is impossible to expect the Principal to check up each of the Marks Cards with the computerised statement received from the Pre-University Education Board and that exercise is necessarily required to be done by the subordinate staff. As the erroneous Marks Cards are not given only in case of Bhadra but to more than 50 students, it is obvious that the wrong marks given in the Marks Cards are not by accident, but by deliberate design. It is obvious that Bhadra and other students were keen to secure Marks Cards indicating that the marks secured are far more than the minimum of 55% required for admission to the University Course. We have no hesitation in concluding that Bhadra and other students had actively participated in securing bogus Marks Card and we are not prepared to accede to the submission of the learned counsel that Bhadra was an innocent student unaware of the fact that the Marks Card issued to him was not accurate. Secondly, even assuming that the Marks Card issued to Bhadra by the Pre-University Education Board does not set out the correct marks obtained by the candidate by accident, still it is impossible to imagine as to how Bhadra could ever claim that his admission should be continued in the University. As mentioned above, Bhadra had secured only 142 marks in the four relevant subjects out of the maximum marks of 400 and obviously having secured less than 55% marks, Bhadra could have never secured admission to the University Course. It is difficult to appreciate how the candidate, who was not eligible to admission to the Degree Course, can claim that because once the University has admitted the candidate, the admission should not be cancelled even when it has been established to the hilt that the Marks Card was not a genuine one.

8. The learned counsel referred to the decision in the case of Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others, and especially to the observations made in Paragraph 11. We are afraid that the observations referred to have no relevance whatsoever to the facts of the case. Mr. Hegde, learned counsel appearing on behalf of some of the appellants, then submitted that the students were denied opportunity to establish that the Registers maintained by the Pre-University Education Board and the Computerised statement forwarded to the College, were not accurate. It was urged that as the opportunity was not given to establish these facts, the enquiry should be held to be vitiated. It is not possible to accede to the submission. Not only the extracts of the results from the relevant registers were produced at the hearing before the Committee, but the students and the Advocates were given access to these documents and none of them even suggested that the registers maintained by the Pre-University Education Board were not correct and the extracts produced were not accurate. Indeed, the students found it impossible even to suggest that the marks set out in the Marks Cards produced by them at the time of securing admission accurately shows the

marks secured by them in the examination. The learned counsel then submitted that it was incumbent upon the Enquiry Committee to call for the original answer books of the students and ascertain whether the marks secured by them are in accordance with the registers maintained by the Pre-University Examination Board or those set out in the Marks Cards produced along with the Application Form. The learned counsel submitted that failure to do so has resulted in breach of principles of natural justice. It is impossible to accede to the submission because the principles of natural justice, should not be stretched to such an absurdity. It is not the case of any of the students that the answer papers indicate the marks other than those noted in the registers maintained by the Pre-University Education Board. It is interesting to note that each of the student involved in these appeals had secured marks less than 55% as disclosed by the registers maintained by the Pre-University Education Board and the Marks Card produced by each of the students shows that the candidate had secured more than 55% marks so as to become eligible for admission to the Degree Course. The learned counsel was unable to point out a single instance that the marks mentioned in the cards produced are less than those secured by the candidate or noted in the Marks Register. It is obvious that the students have secured the bogus Marks Cards with the connivance of some one connected either with the College or with the Education Department of the Government of Karnataka. The students, who have secured admission by production and reliance on such bogus Marks Cards, cannot expect to continue in the University.

9. Mr. Hegde, then submitted that the Committee was constituted under Statute 11 for dealing with the disciplinary cases against the students. The learned counsel submitted that Statute 11(1)(a), inter alia, provides that appeals from the decision of the Committee are to be dealt with by the Committee mentioned under Clause (b) of the Statute; Clause (b) sets out that the Committee consisting of the Directors of Instruction and Directors of Research and Extension with the Dean or one of the Directors nominated by the Vice-Chancellor as Chairman, shall be the appellate authority for disciplinary cases involving teachers, Officers and staff. It is, therefore, obvious that the Statute did not provide for an appeal in respect of the decisions taken by the Committee in cases dealing with indiscipline of the students. Mr. Hegde then submitted that Statute 11 requires the Committee to pass an order inflicting suitable punishment upon the student. But, in the present case, the Committee failed to impose any punishment and the punishment was imposed by the Vice-Chancellor and that is not permissible. The submission was advanced with reference to the subject referred in the notification dated March 13, 1995. Reference No. 6 is the report of the Enquiry Committee dated March 8, 1995, while Reference No. 7 is the Order of the Vice-Chancellor dated March 9, 1995. Relying on this notification, it was contended that the Enquiry Committee did not impose the punishment, but the Vice-Chancellor had imposed the same. The submission is not correct. A perusal of the report of the Enquiry Committee clearly establishes that the Committee had recommended for cancellation, of admission since the students

have secured admission by playing fraud by production of fake Marks Cards. The report of the Committee imposes suitable punishment and the order of the Vice-Chancellor is only direction to the Registrar to issue notification. In our judgment, the decision of the Committee does not suffer from any infirmity.

10. Writ Appeal No. 3591/95 is filed by J. Madhusudana. The candidate was admitted to B.Sc. (Horticulture), which is a four years Course in the year 1991. J. Madhusudana belongs to Scheduled Tribe. The marks secured by J. Madhusudana and as noted in the registers maintained by the Pre-University Education Board, are 35, 39, 35 and 35 respectively in the subjects of Physics, Chemistry, Mathematics and Biology. The total marks secured by the candidate are 144 out of 400. The candidate was declared as passed because the minimum marks required for passing are 35%. The Marks Card produced by the candidate at the time of admission indicates that the marks secured in the Subjects of Physics, Chemistry, Mathematics and Biology are 55, 49, 75 and 65 respectively. The total marks, as indicated in the Marks Card produced by the candidate, are 244 out of 400 and which are obviously more than 55%. The learned counsel appearing for the appellant submitted that the candidate belongs to Scheduled Tribe and as per the eligibility rules, was entitled to admission by merely passing the examination and irrespective of the marks secured. It is undoubtedly true that the candidate was entitled to admission by merely passing the examination. The learned counsel submitted that even if it is held that the Marks Card produced by the candidate is bogus, still the admission secured by the candidate need not be disturbed as the candidate was entitled to admission even with respect to the marks as set out in the records maintained by the Pre-University Education Board. The contention that the admission secured by the candidate should not be disturbed on this count, cannot be accepted for more than one reason. In the first instance, the candidate had produced a bogus Marks Card obviously to gain admission over the other Scheduled Tribe candidates. The candidates must have realised that by merely passing the examination, he may not necessarily get the admission to the Course as the other candidates belonging to the Scheduled Tribe might have secured better marks. Therefore, the submission of the learned counsel that the admission of the candidate should not be disturbed because the candidate had passed the examination cannot be acceded to. The second aspect is that if the candidate had produced the fake Marks Card, then it is not open for such candidate to claim that even ignoring the fake Marks Card, his admission should not be disturbed. The candidate, who indulges in fraudulent action of production and relying upon the bogus Marks Card, is not entitled to turn round and claim that he would have otherwise secured the admission having passed the examination.

11. The learned counsel for the appellant submitted that the candidate comes from a rural area and is a victim of circumstances. It was claimed that one Shambhulinge Gowda, an employee of the University, assured the candidate of the admission to the University on payment of a substantial amount. The counsel submitted that the candidate agreed to pay the amount to secure admission and

it was the said employee of the University who had manipulated the Marks Card. It was contended that the candidate was interviewed by the Selection Committee and was selected by taking into consideration the reservation for the weaker section. The counsel submitted that the candidate has put in more than three years and at this juncture, it would not be appropriate to disturb his admission. We are aghast of the submission made. A candidate, who had offered consideration to an employee for admission, cannot claim that he was an innocent victim of circumstances. No one, who pays illegal amount for securing benefit, can ever claim that he was unaware that the admission was secured by improper means. The submission of the learned counsel makes it clear that a candidate is not an innocent victim, but a manipulator who was prepared to pay illegal amount to secure admission. It is impossible to imagine how such a candidate, whichever community he belongs, can claim to continue in the University. The learned counsel cited certain decisions to urge that the action of the Enquiry Committee suffers from serious infirmities, inasmuch as the Committee did not examine the members of the Selection Committee, who had interviewed the candidate at the time of entrance. It is not even necessary to refer to the decisions cited as, in our judgment, it is impossible to comprehend the submission that the members of the Selection Committee, who had interviewed the candidate, should have been tendered before the Enquiry Committee. We are unable to appreciate what purpose would have been served by such exercise.

12. The final submission advanced by the learned counsel for the appellants is that even assuming that the students have secured admission by producing bogus Marks Cards, still on equitable considerations, the admissions should not be disturbed. It was claimed that the students have undertaken the course after admission and have successfully completed the Semester Courses. It was urged that the cancellation of the admission would result into serious prejudice to the careers of young people. The counsel appearing for the candidate belonging to the Schedule Tribe, even went to the extent of submitting that the misdirected youth should not be punished, otherwise he would be a nuisance to the society. Several decisions were cited to claim that the Court should always take a sympathetic view for the students whatever may be their follies. We are not prepared to, accede to the submission. A time has come to make it clear to the students community that it is not permissible to secure admission by hook or crook. The students must realise that employment of wrongful means to secure admission is not tolerated by Courts. The impression is gaining ground that whatever may be the means employed by the students, still an appeal can be made to the conscience of the Court by claiming that to protect the interest of the students, their wrongs should be overlooked. Acceding to such submission sends a wrong signal to the students community in particular and to the society in general that the Courts will tolerate any mischief which is done to secure admissions. The admissions to the Courses have become very difficult and if the students, who are not eligible, secure admissions by deceitful means, that causes

serious prejudice to the genuine students who burn mid-night oil to gain marks at the examination. A feeling of depression comes to the genuine students when it is noticed that ineligible students or the students who have secured admission by deceitful means, continue to undertake their course by appealing to the Court that whatever may be the wrongs done, their career should not be affected because they have undertaken the course for some period. To allow such considerations to weigh with the Court would amount to giving a charter to the students to indulge in such activities. In our judgment, it is high time that every one concerned with the education must realise that false claim based on false documents will not entitle to claim any benefit merely because the litigation remains pending in the Court for some time. We may usefully refer to the design of the Supreme Court in the case of Gurdeep Singh Vs. State of Jammu and Kashmir and others, . In the case before the Supreme Court, a student had secured admission to M.B.B.S. Course by claiming excellence in a Sport which was not included in the list of approved Sports. The appeal made to the Supreme Court that the students should be permitted to continue the education, met with the following observations (Para 9):

"We are afraid, unduly lenient view of the Courts on the basis of human consideration in regard to such excesses on the part of the authorities, has served to create an impression that even where, an advantage is secured by stratagem and trickery, it could be rationalised in Courts of law. Courts do and should take human and sympathetic view of matters. That is the very essence of justice. But considerations of judicial policy also dictate that a tendency of this kind where advantage gained by illegal means is permitted to be retained will jeopardise the purity of selection process itself; engender cynical disrespect towards the judicial process and in the last analysis embolden errant authorities and candidates into a sense of complacency and impunity that gains achieved by such wrongs could be retained by an appeal to the sympathy of the Court. Such instances reduce the jurisdiction and discretion of Courts into private benevolence. This tendency should be stopped."

13. After careful consideration of the various facts urged by the learned counsel, we have no hesitation in concluding that the learned single Judge was perfectly justified in dismissing the petitions filed by these appellants and upholding the action of the University in cancelling the admissions of the appellants to various Degree Courses of the University. In our judgment, conceding to the contention of the learned counsel that sympathetic view should be taken to enable the students to continue their education, would amount to misplaced sympathy. The students who are prepared to start their academic career by indulging in trickery and deceitful means, can expect no sympathy from this Court. Such students would destroy the fabric of the society and it is desirable that such students be weeded out from the education field, so as to create confidence in the genuine students that the education imparted in this country is to bring out honest citizens. In these circumstances, we do not find any infirmity in the view taken by the learned single Judge in respect of these appellants.

14. Accordingly, all appeals are dismissed with costs.

15. Appeals dismissed.