

(1998) 06 KL CK 0025
In the High Court Of Kerala
Case No : W.A. No. 1721 of 1997

P.N. Menon

APPELLANT

Vs

Director of Technical Education, Trivandrum and Another

RESPONDENT

Date of Decision : 05-06-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1998 Ker 383

Hon'ble Judges : D. Sreedevi, J;A.R. Lakshmanan, J

Bench : Division Bench

Advocate : Antony Dominic, for the Appellant; Govt. Pleader and C.K. Pavithran, for the Respondent

Final Decision : Dismissed

Judgement

Ar. Lakshmanan, J.—The President of All Kerala Technical Institutes Association, Nadathara, Trichur filed OP 16141 of 1996 with the following prayers:

"1. to issue a writ of certiorari or other appropriate writ direction or order calling for the records leading to Ext. P4 order of the 1st respondent and quashing the same;

2. to issue a writ of mandamus or other appropriate writ, direction or order directing the 1st respondent to make arrangements for creating the necessary infrastructure in the office of the Director of Technical Education for exercising effective control over the KGCE institutes if found lacking;

3. to grant such other reliefs that the Hon"ble Court may deem fit and proper to grant on the facts and circumstances of the case."

2. The main prayer is to quash Ext. P4 which reads thus :

"In the G.O. read as first paper, Government have approved the revised syllabi for the KGCE course. As per the above syllabi, out of 600 marks, 100 marks have been set apart as internal assessment marks; 20 marks each for two theory

subjects and drawing and 40 marks for practical. The Director of Technical Education in the letter read as second paper above, has reported that the internal assessment marks are to be awarded only after proper evaluation based on tests, assignments, etc. by competent teachers with proper supervision. In the present set up there is no machinery for effective supervision and also Technical Education Department has no direct control over the staff of the KGCE Institution. Director of Technical Education has therefore requested Government to issue order deleting internal assessment marks from the scheme of KGCE course.

Government have examined the case in detail and are pleased to order the deletion of the internal assessment marks from the scheme of KGCE course."

The second prayer is for a mandamus directing the first respondent to make arrangements for creating necessary infrastructure in the Office of the Director of Technical Education for exercising effective control over the institutes, if found lacking. According to the appellant, respondents without notice to the affected persons issued Ext. P4 order dated 20-9-1996 deleting the internal assessment system from the scheme of KGCE course.

3. Respondents 1 and 2 file dacounter affidavit in which, after referring to the facts which led to the introduction of internal assessment system, it is submitted that the power of supervision exercised by the Department is negligible in respect of an institution imparting the course and because of the practical difficulties in the implementation of the same, it was decided to delete the marks in internal assessment scheme. It is also submitted that the system of internal assessment will be used for enforcing discipline in the institution which, according to the respondents, could not be achieved by Exts. P3 and P3(a).

4. The Original Petition was disposed of by Abdul Gafoor, J. by his judgment dated 8-7-1997. The learned Judge dismissed the Original Petition declining to grant both the prayers. Aggrieved by the said judgment of the learned single Judge, the appellant has preferred this Writ Appeal.

5. We have heard Mr. Antony Dominic, learned counsel appearing for the appellant. Learned counsel submitted that Exts. P3 and P3(a) were issued by the respondents revising the syllabus for KGCE course following the recommendations of a committee consisting of persons in the academic field. The recommendations were considered by the respondents and on being satisfied about the necessity of the same, it was accepted. However, the said recommendations of the committee accepted and implemented by the respondents have now been withdrawn by issuing Ext. P4. Therefore, he submitted that the withdrawal of the scheme is illegal and arbitrary and the reasons stated in Ext. P4 are all unsustainable. Learned counsel further submitted that in the absence of any report to the contrary by an equally competent academic body, respondents ought not to have issued Ext. P4 and on that ground itself Ext. P4 is vitiated.

6. We are unable to countenance the contention of the learned counsel for the appellant. In GO(MS) 14/95/H.Edn dated 24-1-1995 (Ext. P3). The Government have approved the revised syllabi for the KGCE course and as per the above syllabi, out of 600 marks, 100 marks have been set apart as internal assessment marks; 20 marks each for two theory subjects and drawing and 40 marks for practical. While so, the Director of Technical Education, by his letter dated 1-2-1996, has reported that the internal assessment marks are to be awarded only after proper evaluation based on tests, assignments etc. by competent teachers with proper supervision and in the present set up there is no effective machinery for supervision. The Technical Education Department has also no direct control over the institutes imparting KGCE course. The Director, therefore, requested the government to issue an order deleting internal assessment marks from the scheme of KGCE course. The Government, pursuant to the request of the Director, examined the case in detail and have decided to order deletion of the internal assessment marks from the scheme of KGCE course. We are of the opinion that when the Government have decided to delete the internal assessment system on the advice of the Director of Technical Education, who is the competent authority to advice the Government, this Court, exercising its jurisdiction under Article 226 of the Constitution of India, cannot interfere with the decisions taken by the authorities concerned. As already noticed, the power of supervision exercised by the Department is negligible in respect of an institution imparting the course and because of the practical difficulties in the implementation of the same, it was decided to delete the marks in internal assessment scheme. A perusal of Ext. P4 would also show that Ext. does not do away with the internal assessment, but only delete the marks for internal assessment from the scheme. Still, the management can continue internal assessment for assessing the standard of the students.

7. Insofar as the second prayer is concerned, we are of the opinion that the appellant cannot seek a direction from this Court in a petition under Article 226 of the Constitution of India to the Government to exercise their legislative power. Therefore, in our opinion, such a prayer is also rightly declined by the learned single Judge. No case is made out for interference with the judgment of the learned Judge.

The Writ Appeal fails and it is accordingly dismissed.