
(2005) 11 KAR CK 0043
In the Karnataka High Court
Case No : Writ Petition No. 23132 of 2005

R. Jayaraman and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 25-11-2005

Acts Referred:

Citation : (2006) 6 KarLJ 226

Hon'ble Judges : R. Gururajan, J

Bench : Single Bench

Advocate : M. Nagarajan, for the Appellant; B. Manohar, A.G.A., for the Respondent

Judgement

R. Gururajan, J.—Jayaraman and 20 others are before me seeking for a writ of certiorari quashing the order dated 6-10-2003, Annexure-C passed by the 3rd respondent. They want a direction to the respondents to promote the petitioners to appear for the C.P.Ed. examination scheduled to be conducted as per the notification dated 20-9-2005 and to declare the results.

2. The petitioners are the students of C.P.Ed. courses having joined and admitted to the said course in the academic year 2002-03 in the month of June 2002 at Divya C.P.Ed. College, Sadashivanagar, Tumkur. Admissions of the petitioners were approved by the respondents. The course is for one year. The petitioners say that the theory examination consists of 5 papers. Theory examination commenced on 19-5-2003 and ended on 23-5-2003. All the petitioners have taken theory examination. They appeared in written examination i.e., Papers I to IV which were conducted between 19-5-2003 and 22-5-2003. The petitioners have performed all the said 4 theory examinations well. The said examination was conducted through DIET institution at Government Empress Girls Pre-University College, Tumkur. The duration of each of the paper is three hours. The Principal of the DIET institution was the Chief Superintendent for the said examination. The examination was conducted in three rooms. Along with the petitioners, 7 other candidates who were repeaters had also taken up the said

examination. Examination squad visited the examination hall on 21-5-2003 and found no malpractice, whatsoever. On 23-5-2003, while the petitioners were writing the 5th paper, the squad visited the examination hall at about 12.30 p.m., a lady member of the said squad checked each of the candidates and she found nothing regarding any kind of malpractice. A male member checked room Nos. 1 and 2, where the petitioners were writing the exams and found nothing. Immediately thereafter, the repeater candidates entered into their rooms where the petitioners were writing the examination and forced them to move out of the examination hall forthwith leaving the answer scripts. The petitioners protested. The same resulted in vain, snatching the answer script from some of the candidates, which resulted in total chaos. Neither the room invigilator, nor the squad members came to the assistance of the petitioners. On the other hand, they remained as mute spectators. There was heated exchange of words between the 7 repeater candidates on one side and the Invigilator and Squad on the other end. The said incident was about to result in manhandling with each other as a result of which the petitioners could not concentrate on the examination leaving the answer script. It is seen that the answer scripts were torn and the squad collected the incomplete answer scripts and left the examination hall. A complaint was filed before the Sub-Inspector of Police. In the complaint, it is stated that 9 students were found copying. They left the examination centre by virtue of the fact that they have been debarred and sent out. Thereafter, the remaining 37 students supporting the said 9 students left out of the examination hall along with the answer script and torn off the same. Tumkur Police Station has filed a "B" report. This would support the petitioners. Thereafter, the 3rd respondent passed an order on 9-6-2003 debarring the petitioners for six examinations including the examination in which they appeared in May 2003. No notice was given. It is in violation of rules of natural justice. Aggrieved by the order dated 9-6-2003, the petitioners filed a review petition. Review petition was rejected in terms of an order dated 6-10-2003. Thereafter, the petitioners filed an appeal before the Commissioner and the Commissioner has dismissed the same on the ground of maintainability. The petitioners in these circumstances are before me challenging the various orders.

3. Respondents are represented. Parties are heard for final disposal.

4. Learned Counsel for the petitioners would essentially argue violation of rules of natural justice. He also urged that this Court has to permit the petitioners to appear for the examinations and the earlier examinations are also to be considered by the respondents. The same is opposed. Original file is made available to the Court.

5. After hearing, I have carefully perused the material placed on record.

6. It is seen that the petitioners were admitted to the C.P.Ed. Course, Tumkur. It is also admitted that a complaint is lodged and the same has resulted by way of "B" report. Material on record would reveal that the 3rd respondent has passed an order debarring the petitioners from six examinations. Thereafter, the same

was reviewed and instead of 6 examinations, they were debarred from appearing for 4 examinations. Already 3 examinations are over. Only one examination is left.

7. Let me see, in the given and on the facts of this case, any relief could be granted to the petitioners. It is argued before me that the petitioners have not committed any malpractice warranting debarring of examination.

8. Learned Counsel for the petitioners strongly relies on the Karnataka Secondary Education Examination Board Act, 1966. However, at the time of arguments, it is brought to my attention that there are subsequent amended Regulations in terms of the Karnataka Secondary Education Examination Board (Amendment) First Regulations, 1999. Admittedly, it is an amended Regulation, which is applicable to the facts of this case. It is seen from the amended Regulation, that manhandling or resorting to any other kind of violence by the candidate at the examination hall or center would be a malpractice. It further provides for debarring of the candidates for six subsequent examinations including the one in which he/she resorts to manhandling the staff.

9. Material on record would reveal some unfortunate incident in the case on hand. Even the petitioners admit that a violent situation bordering manhandling was created on the said date. Therefore, I am satisfied that there exists a case of malpractice in the given circumstances. The next question that arises for my consideration is who has committed malpractice in the material available on record. There are allegations and counter allegations. Admitted facts would reveal of the petitioners leaving the examination hall and the admitted facts also would reveal of turning the answer sheets.

10. It is seen from the material on record that the petitioners have not been factually provided an opportunity. But the petitioners have themselves have given a representation after filing of the writ petition on 4-7-2005. In the said representation, they admit that the conduct was purely emotional and without any motive or intention. The petitioners also felt sorry and apologize for the said incident.

11. In the light of this document being available on record that too after the orders were issued, what is clear to me is that the petitioners have chosen to admit the incident in the case on hand. They have also expressed regret and apology. In these circumstances, I do not want to go into the legal aspects with regard to an opportunity in terms of the argument in the light of this subsequent document, which is available in the original record. Hence, I am satisfied that the petitioners are to a certain extent are guilty of the malpractice particularly in the light of admission on their part. The next question that is required to be considered is one of relief. In the case on hand, learned Counsel strongly relies on the judgment of Rajasthan in Suresh Kumar Bagaria v. University of Rajasthan and Anr. AIR 1981 Raj. 188. Material on record would reveal that initially the petitioners were debarred for six examinations, which was reduced to four examinations. Three examinations are already over. Taking into consideration, all

these aspects of the matter including the subsequent apology, I deem it is proper to partly accept this petition by way of permitting the petitioners to take the examination commencing in the year 2006. However, the request for considering the earlier examination is not acceptable to me in the light of the amended Regulation.

12. In the result, this petition stands disposed of with a direction to the respondent to permit the petitioners to take the examinations to be held in 2006. In the light of this disposal, no findings are given with regard to the other aspects of the matter.

Ordered accordingly. No costs.