

(1986) 09 KAR CK 0014
In the Karnataka High Court
Case No : Writ Petition No. 15434 of 1986

Rajasekhar

APPELLANT

Vs

Gulbarga University

RESPONDENT

Date of Decision : 30-09-1986

Acts Referred:

Karnataka State Universities Act, 1976 — Section 6, 6 (3)

Citation : (1987) ILR (Kar) 490

Hon'ble Judges : Doddakale Gowda, J

Bench : Single Bench

Advocate : M. Rama Bhat, for the Appellant; S.S. Koti, for R-1, for the Respondent

Final Decision : Dismissed

Judgement

Doddakale Gowda, J.—Petitioner was provisionally admitted to M.Sc., Course in seats reserved in favour of children of "freedom fighter". Later on University, not being satisfied with material placed on record that he is a son of freedom fighter, informed, through Annexure-C, that his case will not fall within the purview of Section 6 of the Karnataka State Universities Act, 1976 (hereinafter referred to as the "Act") and has accordingly returned his application.

2. Under Sub-section (2) of Section 6 of the Act, University, may, by a special or general directions of State Government, reserve seats for admission of students belonging to Scheduled Castes and Scheduled Tribes, socially and educationally backward classes, nominees of Central Government, defence personnel, ex-servicemen and their children or wards and children of freedom fighters. Likewise, University may grant exemption from payment of fees or boarding, lodging or other charges or from all fees and charges or provide special scholarships to such students in whose favour reservation is made under Sub-section(2) of Section 6 Vide Section 6(3) of the Act. Explanation appended to Section 6 reads thus :--

"Explanation :- For purpose of this Section.--"Freedom fighter" means any person who on account of participation in the national movement.--

(a) had been sentenced to imprisonment for not less than six months; or

(b) had been kept in detention (including detention as under-trial prisoner) for not less than six months; or

(c) lost his job or means of livelihood or the whole or substantial part of his property ; and who has domiciled in the State of Karnataka for a period of not less than 5 years immediately preceding the date on which the application for admission or exemption is made."

3. Contention of Sri M. Rama Bhat, learned Counsel for petitioner, is that participation in accession of erstwhile Hyderabad State with Union constitute "national movement" hence, his case squarely falls within the meaning of "freedom fighter" and eligible for admission.

4. Comparison of definition of "freedom fighter" as contained in the Act and in Karnataka Medical Colleges (Selection of Candidates for Admission) Rules, 1984 will make it clear that scope and ambit of "freedom fighter" depends upon definition adopted in respective enactments/rules/orders. In Rules framed by Karnataka, for admission to Medical Colleges, participation in struggle of any princely State, for securing accession of such State to the dominion of India is considered as a "national movement" and definition of "Freedom Fighter" includes such persons - vide Rule extracted in M. Satyanarayana Vs. State of Karnataka and Another, Definition of "Freedom Fighter" in the Act does not comprise of person's participation in struggle of accession of princely State with dominion of India. Legislature in its wisdom might have thought it fit not to equate participation in accession of a princely State with Union with that of national movement of securing freedom to the nation. Whatever may be, once notion of "freedom fight" or "freedom fighter", but this much is certain that no Court can enlarge the scope of definition of "freedom fighter" contained in the Act or re-write it or include persons within the definition, so as to enable petitioner to avail of such concession. Assuming for the sake of argument that father of petitioner had participated in struggle of accession of Ex-Hyderabad with Dominion of India, as such movement is not considered as participation in national movement, it is not possible to accept the plea that petitioner is eligible for admission in this reserved category.

No merit. Writ Petition is dismissed. Rule discharged.