

(1995) 11 KAR CK 0065
In the Karnataka High Court
Case No : Writ Petition No. 39684 of 1995

Raju

APPELLANT

Vs

Common Entrance Test Cell

RESPONDENT

Date of Decision : 27-11-1995

Acts Referred:

Citation : (1996) ILR (Kar) 74 : (1995) 6 KarLJ 195

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : Law Associates, for the Appellant; A.V. Srinivasa Reddy, Government Advocate for R1 and R3 and G. Gangi Reddy, for R-2, for the Respondent

Final Decision : Allowed

Judgement

Bharuka, J

1. This Writ Petition has been filed by the father of one C.L. Nagesh (hereinafter referred as "Candidate") for issue of Writ of Mandamus directing Respondent-Principal to permit his son to join the College in B.D.S. Course as per the provisional admission order (Annexure "G") dated 10.11.1995 issued by Respondent- Special Officer. The candidate is a non-Karnataka Student. Pursuant to the Order of the Supreme Court dated 11.8.1995/ 20.10.1995 passed in T.M.A. Pai Foundation and others Vs. State of Karnataka and others, etc., , directing allotment of 15% out of 50% payment seats to non-Karnataka students, the candidate also applied for having a Dental seat. Accordingly, as per his ranking, he was favoured with the provisional admission order (Annexure "G") on his depositing Rs. 53,350/- as tuition fee. On being approached, the Principal of the Respondent-College refused to permit the candidate to join the College without assigning any reason in writing. Accordingly, the present Writ Petition has been filed for issuing appropriate Writ or direction as noticed above. Respondent No. 2 College has filed its Statement of Objections wherein it has taken the plea that out of permitted intake of 70, 35 seats are free seats, 24 seats are payment seats and 11 seats are N.R.I Management Quota. According

to the second respondent College, out of 24 payment seats, 15 seats are for Karnataka students leaving only 9 seats for allotment to Non-Karnataka students. Their further case is that since the petitioner is 10th non-Karnataka student allotted to their College, they were not obliged to permit him to join the College which has been rightly refused by them.

2. The learned Counsel for the petitioner has referred the Government Order dated 8.9.1995 (Annexure "K) wherefrom it transpires that out of permitted intake of 70, 50% i.e. 35 seats are free seats, 15 seats are payment seats for Karnataka Students, 10 seats are payment/s seats for non-Karnataka students and balance 10 seats are for N.R.I. Management quota. Thus, the College was required to admit 10 non-Karnataka students and 10 N.R.I./Foreign students. This Notification has been issued pursuant to the provisions made, Statutory Rules namely the "Selection of Candidates for Admission to Engineering, Medical and Dental Courses Rules, 1993" as amended from time to time read with Supreme Court Order dated 18.11.1995 reported in T.M.A. Pai Foundation and others Vs. State of Karnataka and others, etc., .

3. Keeping in view the said Notification of the State Government, it was not competent on the part of the respondent-College to refuse the admission to the candidate on the plea that as per its own determination 15% of NRI quota works out to 11 seats and 15% for non-Karnataka students will work out to only 9 seats. The Government Order allocating the seats to various categories is statutory in nature and it was binding on the College both in view of the statutory provisions and also the directions of the Supreme Court in UNNIKRISHNAN vs. STATE OF A.P. AIR 1993 SC 2173

4. Mr. Gangi Reddy, learned Counsel appearing for the respondent-College now states that the seats are available in the College within its permissible intake and the petitioner will be provided with the seat allotted. Notwithstanding the said contention, the fact remains that the respondent College has acted arbitrarily and malafidely in refusing admission to the Candidate who has been put to unnecessary inconvenience and harassment. The Petitioner has been forced to approach this Court resulting in incurring of otherwise avoidable litigation expenses.

5. Keeping in view all these aspects respondent-Principal is directed to permit the candidate to join the Institution as per the provisional admission order (Annexure-G) without in any manner transgressing its intake capacity. Writ Petition accordingly stands allowed. Keeping in view the circumstances of the case Respondent-College is further directed to pay Rs. 2,000/- as costs to the petitioner which will be adjusted against the fees payable by the candidate to the College hereinafter.