

(2015) 11 KAR CK 0062

In the Karnataka High Court

Case No : Writ Petition Nos. 45095 of 2015 (EDN-RES), 36832-36833/2014, 48555/2014, 53215/2014, 53821-53825/2014, 53826/2014, 54045-54055/2014, 25570/2015, 36744-36748/2015, 53254-53274/2014, 42151/2015, 38029-38031/2015, 1339/2015, 55097/2014, 41070-41078/2014, 41

Ramesh Kavadi R.K. and Others

APPELLANT

Vs

Registrar, Visvesvaraya Technological University and Others

RESPONDENT

Date of Decision : 17-11-2015

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2015) 11 KAR CK 0062

Hon'ble Judges : Ashok B. Hinchigeri, J.

Bench : Single Bench

Advocate : S.R. Hegde Hudlamane, Advocate, for the Appellant; T.S. Venkatesh, Advocate, for the Respondent

Judgement

Ashok B. Hinchigeri, J.—As the question of facts and law involved are similar in all these petitions, they are clubbed, heard together and are being disposed of by this common order.

2. The facts of the case in brief are that all the petitioning students were admitted to B.E. Course either in 2005 or thereafter. Their grievance is that the University is not permitting them to prosecute their Course and appear for the Examinations on the ground that they have not completed the B.E. Course within an outer limit of 8 years.

3. Sri S.R. Hegde Hudlamane, learned counsel appearing for the petitioners in some cases submits that the University has been consistently relaxing the existing condition of maximum duration of B.E. Course. In support of his submissions, he relies on the circulars being issued from time to time by the respondent University. They are issued on 01.12.2005, 11.12.2009, 12.05.2010, 27.08.2010, 24.09.2011, 26.10.2012, 27.09.2013 and 01.10.2014 and

14.09.2015. He pointedly brings to my notice that once the students admitted in 2002 were permitted to appear for the examination in June - July 2015. Some students were permitted to take 10 to 13 years to complete the B.E. Course. He prays for a direction to the respondent University to extend the maximum duration relaxation to the present petitioning students.

4. He submits that some of the petitioners have already appeared for the examination by virtue of the interim orders and some students for whom examination was not due have been permitted to prosecute their studies.

5. Sri B.B. Patil, learned counsel for some of the petitioners submits that the notification, dated 01.10.2014 provides for the imposition of penalty of Rs. 3,000/- per subject for completing the course beyond the stipulated period of eight years. He prays for a direction to the University to extend the same benefit to the presently petitioning students also.

6. Sri G.R. Mohan, learned counsel appearing for the petitioners in W.P. No. 53215/2014 submits that the petitioner sustained multiple injuries on account of a road traffic accident. On the medical ground he has been permitted to appear for the exams by paying the penal fee of Rs. 3,000/- per subject.

7. Sri G. Nataraj, Sri K.K. Vasanth, Sri Subramanya Bhat, Sri K.S. Bheemaiah, Sri B. Srinivas, Sri S.Y. Shivalli and Sri K.A. Ariga make the submissions akin to the submissions made by Sri Hegde Hudlamane.

8. Sri T.S. Venkatesh, learned counsel for the respondent University justifies the University's refusal to permit the petitioners to prosecute the B.E. Course on the expiry of the 8th year. He brings to my notice the Regulation No. OB 6.2 Regulations governing the Course of B.E. and B.Tech from 2006-2007. It reads as follows:

"OB 6.2 The candidate shall complete the course within a period of eight academic years from the date of first admission, failing which he/she has to discontinue the course. "

9. He submits that after 2010, the University has not given any relaxation to any student in the matter of completing the B.E. Course within 8 years. He submits that the circulars to which the references came to be made by Sri Hegde Hudlamane are issued only to enable those of the students who had completed the Course but had not cleared all the subjects. He submits that if once an illegality is committed, it can not be perpetuated perennially. Relying on the Apex Court's judgment in the case of National Council for Teacher Education and Another Vs. Committee of Management and Others, , he submits that the concept of Article 14 carries a positive concept. Only because some illegalities had been committed by the Council in respect of another institution, the same may not by itself be a ground for perpetuating the illegality.

10. He sought to draw support from the Division Bench judgment of this Court in the case of Yogish M. v. Vishveshwaraiah Technological University and Others

reported in 2013 (2) AKR 55 to advance the submission that the Court's interference in the academic matters is not warranted.

11. Sri E.S. Indires, learned Government Pleader submits that the University's Regulations do not provide for the relaxation of the duration for completing the Course.

12. I see considerable force in the submission of Sri Venkatesh that the courts do not have the equipment or expertise to deal with the academic matters. Which course has to be completed in how many years is to be decided by the academicians, educationalists and experts in the field.

13. But what cannot be overlooked or ignored in these cases is that the respondent University has been consistently relaxing the maximum duration condition. The respondent University appears to have put Regulation OB 6.2 into a state of disuse; there is abrogation of law by long non-user. Disusing and disregarding the said Regulation for years attracts the doctrine of desuetude.

14. On the touchstone of Article 14 of the Constitution of India also, this issue can be examined. It is not in dispute that many similarly placed students in the past have been given relaxation in the matter of maximum duration by virtue of 8 circulars relied upon by the petitioners. If the said benefit is denied to the similarly placed students, it would be violative of the right to equality guaranteed by Article 14 of the Constitution of India.

15. No convincing explanation is forthcoming from the respondent University as to how and why the departure was made from the Regulation OB 6.2. In view of a large number of precedents, it is high time the respondent University takes a call on the subject of maximum duration for the completion of B.E. Course.

16. The ends of justice would be met by my allowing these petitions in part by directing the petitioning students to submit their individual representations through the College to the respondent University. This shall be done within one week from the date of the issuance of the certified copy of today's order. The respondent University shall consider the anticipated representations as expeditiously as possible and in any case within 10 days from the date of their receipt. The consideration of the petitioners' anticipated representations should not be cursory. The respondent University is required to consider the anticipated representations in the light of the precedents in the similar cases.

17. I am also of the considered view that in these cases, some transitional arrangement is also required to be made. The petitioning students are permitted to prosecute their studies and appear for the forthcoming semester examination subject to the outcome of the consideration of their representations. If the respondent University resolves to relax the maximum duration condition the same has to be on an uniform basis. The Regulations and relaxations therefrom have to be the same for all the similarly placed students. The question of announcing the results of the examinations for which some of the petitioners

have already appeared depends on the outcome of the consideration of the petitioners' anticipated representations.

18. No order as to costs.