
(1999) 09 AP CK 0126

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 14245 and 14443 of 1999

S. Srivalli and Others

APPELLANT

Vs

Secretary, Board of Intermediate Education and Others

RESPONDENT

Date of Decision : 15-09-1999

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1999) 6 ALT 785

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : P.V. Subrahmanya Sarma, for the Appellant; T.V.P. Prabhakar, S.C. for the Respondent No. 1 and Govt. Pleader for Respondent Nos. 2 and 3, for the Respondent

Judgement

B.S.A. Swamy, J.—In these two writ petitions the question that has arisen for consideration of this Court being common, i.e., whether the action of the respondents in not conducting instant examinations to the students of Vocational Courses in Intermediate is violative of Article 14 of the Constitution of India, they can be disposed of by a common judgment.

2. In both the writ petitions, four students in all, who studied Intermediate Vocational Course in Computer Science and Engineering courses during the academic years 1997-1999, seemed to have appeared for the final year examinations held in the month of April, 1999 and all of them seemed to have failed in one subject. When they tried to appear for the instant examinations that are being conducted by the 1st respondent, the respondents refused to receive the examination fee by stating that instant examinations are being held only for the students in the academic stream, but not to the students of vocational stream.

3. The petitioners contended that such an action on the part of the respondents resulted in hostile discrimination in their favour and thereby they lost one academic year in prosecuting higher studies.

4. Secondly, they contended that as per the revamped curriculum, the Intermediate Vocational Course in Computer Science and Engineering is recognised by all the Universities in the State of Andhra Pradesh as equivalent to General Intermediate course and the students qualified in the examination can prosecute their education in B.Sc., B.Com., and B.A., degree courses. That apart they are also eligible to appear for EAMCET for seeking admission into B.Tech., degree course in the State of Andhra Pradesh, on merit. In fact, one of the students/petitioners secured a high rank in the EAMCET-99 for admission into B.Tech. degree course during the academic year 1999-2000 and he lost his opportunity of getting admission into the said course because of the arbitrary action on the part of the respondents.

5. In the counter, the respondents contended that the object of Vocational Course is to prepare the students for self-employment after completing two years of study with more than 60% of practical training and the syllabus was prepared accordingly. They further contended that these courses are designed for those students who are not planning to go for higher studies, and pleaded their inability in conducting the instant examinations for vocational courses, both on administrative and academic grounds on the ground that there are as many as 30 Vocational Courses are being offered in various colleges affiliated to the respondent-Board in the State of Andhra Pradesh and 23 new courses are being proposed to be introduced during the academic year 1999-2000.

6. It is not in dispute that as per the guidelines issued by the Central Government in the National Policy on Education, 1986, Vocational Courses have been introduced in the State of Andhra Pradesh for vertical mobility of the pass-outs in the Course. As admitted by the respondents themselves, though these courses were designed mainly for the students who are not planning to go for higher studies, as per the curriculum issued by the respondent-Board for the students pursuing few Vocational Courses viz., Computer Science and Engineering, avenues were provided for higher studies. As per the revamped curriculum V - 1993, which came into effect from the academic year 1993-94 the Vocational Course in this branch is treated as equivalent to general intermediate course by all the Universities in the State of Andhra Pradesh for admission into B.Sc., B.Com., and B.A., degree courses and in fact, they are also eligible to appear for EAMCET, seeking admission into B.Tech., degree course, apart from seeking employment in Computer Programming Organisations or to start their own computer centres to undertake computerisation of data, publication of results officially like Government or Private Enterprises. The Director General of Employment and Training, New Delhi also approved this course for apprenticeship under the Apprenticeship Act, 1961.

7. Coming to conduct of instant examinations, the respondent-Board started conducting instant examinations since July, 1989 and the idea behind this action can be seen from the minutes of the 38th Meeting of the Board of Intermediate Education held at 11-00 A.M. on 11-10-1994 in the Office of the Secretary, Board

of Intermediate Education, Nampally, Hyderabad. The instant examinations will be held only to those students who failed in one subject in theory either in I year or in II year that too in the annual examination. In fact, the scheme was introduced with a view to dispense with the supplementary examinations that are being conducted in the middle of the academic year, which are resulting in loss of instructional days and dislocation to the studies of the students. It is useful to extract paragraphs No. 7 to 10 of the agenda in Item No. 14 of the said meeting to know the mind of the policy makers.

(7) In order to avoid loss of instructional days and dislocation to studies it is proposed to dispense with the Supplementary Examinations from the next academic year and in its place to conduct an "Instant Examination" wherein those candidates who have failed only in one theory paper either in the 1st year or 2nd year subjects at the annual examination will be eligible to appear for the examination.

(8) This "Instant Examination" will be conducted only on "One day" in very few centres, one or two in each District within weeks from the date of publication of annual examination results and the results of these candidates will be released in about 12 to 15 days after the conduct of Instant Examination. The candidates who pass in this examination can continue their studies along with the other students who passed in the annual examination.

(9) The "Instant Examination" is benefiting thousands of candidates every year enabling them to continue their further studies without any loss of academic year.

(10) In view of the facts mentioned above the Supplementary Examinations may be dispensed with atleast with effect from Intermediate Public Examinations, October, 1994."

8. Though the supplementary examinations were not abolished, the respondent-Board is conducting instant examinations since July, 1989 onwards. The Rules framed by the Board for conduct of instant examination, relevant to the issue in question are extracted hereunder:

Board of Intermediate Education: A.P., Hyderabad, Rules and Regulations for the Conduct of Instant Examination.

I. The Instant Examination will be held only in "Theory" papers. No examination will be held in "Practical Papers."

II. Candidates Eligible:

(i) The Instant Examination will be conducted only for the candidates of "Academic Stream". This does not apply to the candidates of Vocational Stream.

(ii) Candidates of 2nd year (Regular & Private) who appeared at the immediate preceding Annual Examination and Passed in all Practical and Theory Papers except in One Theory Paper Either 1st Year or 2nd Year are alone eligible for Instant Examination".

9. In the light of the rule position and the stand taken by the respondent - Board, it has to be seen to what extent the action of the Board can be sustained.

10. Firstly, the Counsel for the respondent-Board contended that the Board has not adapted resolution to conduct Instant Examination to the students of Vocational Course. But, from the minutes of the 38th Meeting of the Board, extracted supra, it is seen that no distinction was made between the courses of Academic Stream and the Vocational Stream. It is only in the Rules such a distinction was made and the benefit of appearing for Instant Examination was denied to the students of the Vocational Course.

11. From the counter filed by the respondent-Board, it has to be presumed that the Rules were framed for the conduct of Instant Examination under an impression that these Vocational Courses are mainly designed for the students who are not planning to go for higher studies, but as per their own revamped curriculum, which came into effect from the academic year 1993-94, atleast the students of Intermediate Vocational Course in Computer Science and Engineering were treated as equivalent to general intermediate course and they are eligible for admission to graduate courses as well as Engineering course apart from the employment avenues open to them after completion of the course. From the minutes of the Board it is seen that the Instant Examination is contemplated to save one academic year of students who failed in one theory subject either in 1st year or in 2nd year at the annual examination and even according to the respondents thousands of students are benefited with the introduction of the Instant Examination, who are also to continue their further higher studies, without any loss of academic year.

12. In the instant case, it is not the case of the respondents that though these students studied Intermediate Vocational Course in Computer Science and Engineering are not provided with further avenues to prosecute higher studies as per the revamped curriculum. It is also not in dispute that these students failed in only one subject by getting marginally less marks than the required marks to get through the examination. It is also not in dispute that one of the petitioners secured a very high rank in EAMCET-99 and had the respondents conducted Instant Examination there is every possibility of the petitioner getting through the examination and securing a seat in B. Tech., degree course.

13. Further even as per their own revamped curriculum, though it is a Vocational Course, it was treated as equivalent to general intermediate course and the students are eligible to get admission into degree courses. In other words, though this course is termed as Vocational Course technically, the respondents started treating it as a course in academic stream since 1993-94. Further, in their counter, except stating that while considering the conduct of Instant Examination for general intermediate course, the need of feasibility of extending this facility was examined by the Government and found that it was not feasible to extend the same to the Vocational Courses, no material whatsoever was placed to find out whether the policy makers applied their mind before taking a decision

disentitling the students of Vocational Courses from appearing for the Instant Examination and to find out whether the reasons underlying the decision can be justified on the touchstone of Article 14 of the Constitution of India. Hence, this Court has no hesitation to hold that the action of the respondents in not holding Instant Examination to the students of Vocational Course who are eligible to prosecute higher studies, resulted in hostile discrimination against them and offends Article 14 of the Constitution of India.

14. Nextly, the Counsel for the respondents contended that as many as 30 Vocational Courses are being imparted in various colleges affiliated to the Board as on to-day and 23 new courses are also being proposed to be introduced during the academic year 1999-2000 and if the respondents have to conduct Instant Examination for all these students, it may result in waste of time, labour and money in getting the question papers prepared and in conducting the examinations as the number of students that are going to appear is likely to be insignificant.

15. It is not the case of the respondents that for all the Vocational Courses further avenues for prosecuting higher studies are available. For instance courses like Dairy, Poultry and Swine Production, X-Ray Technician, Ophthalmic Technician so on and so forth. Out of 30 courses that are being impacted there may not be even a handful of courses for which avenues for higher learning were provided. The very object of introducing Instant Examination is to save one academic year to the student, who is having further avenues to going to higher studies. Likewise, the contention of the respondents that conducting Instant Examination to Vocational Courses will result in prohibitive cost apart from wastage of time and labour cannot also be countenanced. As ours being a welfare State, the State is bound to provide more and more opportunities of learning to increase the knowledge and skills of students. If students in a particular course are meagre in number, the respondents can get the required question papers prepared by cyclostyle or even by computers without spending much amounts on it. Hence, I do not find any merits in this contention also.

16. The other contention is that if Instant Examination is to be conducted for Vocational Courses also, the Board has to prepare as many as 521 question papers with different paper codes for both 1st and 2nd years, is also rejected for the reasons given supra.

17. Nextly, the Counsel for the respondents contended that the Board having taken a decision to dispense with the conduct of Instant Examination from 1998 onwards, in its 43rd Meeting held on 14-07-1997 and is awaiting orders of the Government. Hence, the relief sought for by the petitioners need not be considered by this Court.

18. Even if the decision was taken on 14-07-1997, it is not in dispute that the Board is conducting Instant Examinations all through and as long as the Instant Examinations are conducted, the Board is not justified in denying the same to

the Vocational Course students, merely on the ground that the proposal to dispense with the system, is pending consideration before the Government. Hence, this contention is also rejected.

19. The respondents further contended that Article 14 of the Constitution of India, cannot be invoked in the instant case as there is no similarity between the courses under academic Stream and Vocational Stream as the syllabus, teaching and the ratio of practical and theory classes are also different and distinct from one another.

20. This contention is also devoid of merits for the simple reason that the conventional intermediate course consists of both Arts and Science and there is no similarity between the syllabus, teaching and conducting of classes and the introduction of Vocational Courses is of recent origin and mainly intended as self-employment oriented due to the fast industrialisation of the country as well as introduction of innovative methods for improvement of production in non-industrial section apart from enabling an individual to make out his living under self-employment.

21. As observed supra, the question of conducting Instant Examination for all the Vocational Courses may not arise as no further avenues were provided for higher learning to the students of all the courses/subjects/trades. It is only to those courses where avenues are provided for higher learning, the respondent-Board is bound to conduct Instant Examination to see that the students would not lose one academic year on par with other students under Academic Stream. Accordingly, this contention has also no legs to stand and it is dismissed.

22. Lastly, they contended that as the Supplementary Examinations are going to be conducted from 22nd October, 1999, any direction to conduct Instant Examination at this stage will create problems.

23. I find some force in this contention of the Counsel for the respondent-Board, but at the same time, the Court is also expected to see the injustice meted out to the petitioners herein and to protect their interests also while acceding to the request of the respondents. I have given my considered thought over this issue and I feel that the interests of the petitioners can be protected by giving the following direction.

24. The respondent-Board shall prepare the timetable for conducting Supplementary Examinations in such a manner that the students of Intermediate Vocational Course, who are appearing for one subject shall take their examination on the first day of commencement of the Supplementary Examinations and make all necessary arrangements to declare the results of Instant Examination that are going to be held on the first day of the Supplementary Examinations by the end of October, 1999 without waiting for publication of the results in supplementary examinations.

25. As far as admission to Engineering Course is concerned, the counselling is

not likely to be completed before the end of October, 1999 and as such I am inclined to give a direction to the Convener EAMCET-99, to consider the cases of the students of Intermediate Vocational Course for admission on the basis of the ranking obtained by them in the EAMCET-99 and keep the seats vacant till the Intermediate Board publishes the Supplementary Examination results that are going to be conducted from 22nd October, 1999 and thereafter take further action to allot the successful students to the respective colleges.

26. With regard to admission into degree courses i.e., B.Sc., B.Com., and B.A., the students are given liberty to seek admission in the courses to which they are eligible if seats are available after publication of the results of the Supplementary Examinations by the respondent-Board.

27. In the event of these students securing seats either in the Engineering or Degree courses, their attendance has to be counted from the date of their admission/joining but not from the date of commencement of the session, for considering their eligibility to appear for the annual examinations to be conducted at the end of the academic year. This direction is given following the judgment of the Supreme Court in *Harsha Pratap Sisodia v. Union of India*, 1 (1999) SLT 573.

28. In the result both the writ petitions are allowed and the respondents are directed to conduct Instant Examinations to the Students of Intermediate Vocational Course to whom avenues are provided for higher learning on par with the students of Intermediate Academic Stream, from July 2000 onwards and continue to conduct them till the Instant Examinations are dispensed with.

29. As far as this year is concerned, the respondent Board is directed to conduct Examination to the students of Intermediate Vocational Course, who are appearing in one subject only, on the first day of commencement of the Supplementary Examinations and declare the results of those students by the end of October, 1999.

30. The Convener EAMCET-99 shall consider the cases of eligible students on the basis of the ranking obtained by them in the EAMCET-99 for admission into Engineering Course and keep the seats vacant till the results of the Supplementary Examinations are declared by the respondent-Board. Likewise, the Principals of all the Degree Colleges in the State of Andhra Pradesh shall consider the cases of these students for admission into various degree courses as per their eligibility and subject to availability of seats after publication of the results in the Supplementary Examinations by the respondent-Board.

31. In the event of the students getting admission either into Engineering or Degree courses after the results in Supplementary Examination are declared, their attendance shall be counted by the concerned authorities, from the date of their admission into the course, for considering their eligibility to appear for the annual examinations to be conducted at the end of the academic year.

32. In the circumstances, there will be no order as to cost.