
(1988) 06 KAR CK 0010
In the Karnataka High Court
Case No : Writ Petition No. 17465 of 1987

S.A. Jaffar

APPELLANT

Vs

The University of Gulbarga

RESPONDENT

Date of Decision : 02-06-1988

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1989 Kar 174

Hon'ble Judges : M.P. Chandrakantaraj, J

Bench : Single Bench

Advocate : T.S. Ramachandra, for the Appellant; S.S. Koti, for the Respondent

Judgement

1. This is a petition filed by one S.A. Jaffar, a student at the relevant time in the College of Geology and Mineral Processing, at Nandihalli, Sandur Taluk, Bellary District. The said college is affiliated to the University of Gulbarga. He has alleged that he had appeared for the M.Sc., examination held in the month of May-June 1983. But, he was not permitted to take the examination on account of alleged shortage of attendance of which he was made known only three days prior to the commencement of the examination. There were five other students who were similarly placed. All the students filed W.Ps.9287 to 9292 of 1983 in this Court and pursuant to the order made by this Court they were permitted to take the examination. Petitions however came to be disposed of finally by an order dt. 15-2-1984. In the light of the direction issued by this Court, petitioner had made representation to the University to consider his case in the matter of shortage of attendance. Nothing really transpired and therefore he was compelled to file W.P.8381/86 in this Court praying for a mandamus to announce the result of the examinations he had taken during May-June 1983. This Court by order dt. 11-12-1986 allowed the said Writ Petition and directed fresh consideration in the light of the directions issued by the Court to take a decision in the matter of shortage of attendance. The direction included that in case the shortage was not under 60% required the Syndicate should condone the shortage and announce

the results. After nearly 5 years of litigation, the result of the performance came to be announced by the University on 30-4-1987. Petitioner was declared to have failed in some of the subjects. Marks card was furnished to him on 27-5-1987, He has alleged that on 23-6-1987 he sent a representation to the Registrar of Evaluation of the respondent Gulbarga University for revaluation of some of the papers. He has further alleged that some necessary fee also was deposited. Nothing transpired on, his representation. Therefore, on 10-9-1987 a registered notice was issued by the petitioner's Counsel to the Registrar of Evaluation of the respondent-University. He had earlier issued, a notice on 25-8-1987 calling upon the Registrar for Evaluation to re total and revalue certain of the answers books. As no reply was received to his various letters, representations and notices, he has approached this Court under Art. 226 for relief, he has prayed that the records pertaining to the case of the petitioner together with answer papers in Petrology and Minerology and Geophysics, Hydrogeology and Drilling may be called for and after perusing the same direct the second respondent-Registrar of Evaluation, Gulbarga University to have the same revalued.

2. This Court issued notice on 25-11-1987. From then onwards, University entered appearance through Counsel. On 23-2-1988 learned Counsel for the University submitted to the Court that the answer scripts of, the petitioner were not available with the University. But, he failed to give any reason for the non-availability. In that circumstance, this Court directed that the University may file an affidavit disclosing the reason why answer scripts were not available. As on 3-3-1988 no affidavit had been filed. It was further adjourned to 24-3-1988", by which time an affidavit had been filed, in which it was disclosed that the answer scripts had been disposed of to a paper mill for purpose of pulp. Thereafter wards the petitioner was directed to seek an amendment of the relief, he had prayed for. Pursuant to the direction given on petitioner filed I.A.1, which came to be allowed on 6-4-1988. On 12-4-1988 matter was heard at length. The learned Counsel for the University was not available on that date. However, he was represented by Mr. S. S. Guttal who took time. On 19-4-1988 matter was again taken up for hearing. It was then observed that in the three statements of objections filed by the University, there was inconsistent stand taken. It must however be noted that the two additional statements of objections f iled were without the leave of Court. Annexure-R5, a resolution of the Syndicate passed at its meeting held on 12-10-1983 disclosed that the accumulated stock of the answer scripts in the University go down on account of paucity of space should be disposed of to a paper mill for pulping. It was pointed out by the learned Counsel for the petitioner that what was done on 12-10-1983 by way of a resolution could not be made use of for the disposal of the answer scripts of the petitioner. Even according to the resolution relied upon by the Counsel for the respondent-University, the answer scripts should be kept with the University for at least six weeks after 30-4-1987, the date on which the results were announced.

3. No explanation has come forward from the University as to why disposal of the answer scripts in question to the paper mill had taken place even before six

weeks from 30-4-1987 has elapsed. Having regard to the allegations made in this Writ Petition as well as in the earlier Writ Petitions regarding the conduct of the Principal of the College at Nandihalli and the consistent hostility displayed by the respondents towards some of the students "who approached this Court for relief, this Court has no choice but to come to the conclusion that the University has acted with total disregard of its own Rules and Regulations and also the directions of this Court. This has to be viewed by this Court, seriously.

4. This matter came up about two days earlier for orders. But, the Counsel for the University was not present. Matter was directed to be called today hoping that the Counsel for the University would be present. Today also, the counsel for the University is not present. In this circumstance, the Court has no choice but to reject the stand taken by the University and other respondents in the statements of objections filed and hold that had the answer scripts been produced, this Court would have found facts adverse to the University's stand and therefore arbitrarily, deliberately they have withheld the production of answer scripts. As the same are not forthcoming and as the explanation given for not producing the same are not acceptable to the Court for the reasons already given, this Court is compelled to draw an adverse inference that had they been produced the University would have been exposed to the criticism levelled by the petitioner in his petition, i.e., that he has, been victimised by the third respondent.

5. Therefore, in accordance with law an adverse inference is bound to be drawn and it is accordingly drawn. If there are no answer scripts for revaluation and they have been prematurely disposed of for making pulp to a newspaper factory without the authority of law despite the pendency of this petition, this Court has the unfortunate task of directing the University to announce the results of the petitioner in the aforementioned subjects for which he had asked for revaluation and, re-totaling, as having passed, which is an unusual thing for this Court to do.

6. At the same time the conduct of the University as well as its counsel must also be subjected to some adverse comments by this Court. This Court in cases involving students' problems with the University or other authorities does within its power expeditiously dispose of the matters if there is co-operation from the University or other authorities. If this co-operation is not adequately forthcoming the Court at times feels helpless, but not so helpless, as not to draw the attention of the Government so that proper action may be taken by it and the Chancellor of the University for this kind of non-co-operation with the Court.

7. Rule will accordingly issue and be made absolute and a direction will issue to the respondent University and its Officers to announce the results of the petitioner in the papers Petrology, Mineralogy, Exploration, Geophysics, Hydrogeology and Drilling at the examinations held in May-June 1983 to have passed in the said subjects in super session of the results announced in April, 1987.

8. A copy of this order shall be forwarded to the Chief Secretary to the Government of Karnataka and the Secretary to the Governor of Karnataka (Chancellor) for appropriate action.

9. University will pay costs. Advocates fee Rs. 250/-.

10. Order accordingly.