

(1998) 03 KAR CK 0094
In the Karnataka High Court
Case No : Writ Petition No. 30754 of 1995

Sarat Babu Koganti

APPELLANT

Vs

The Bangalore University and Others

RESPONDENT

Date of Decision : 03-03-1998

Acts Referred:

Citation : (1998) 03 KAR CK 0094

Hon'ble Judges : Y. Bhaskar Rao, J;S.R. Bannurmath, J

Bench : Division Bench

Advocate : Sri B. Veerabhadrappe and M/s. Law Associates, for the Appellant;
Sri N.K. Patil and Sri A. Chandrashekar Reddy, for the Respondent

Judgement

Y. Bhaskar Rao, J.—This writ petition is filed seeking a writ of mandamus directing the 1st respondent to regularise the admission of the petitioner for the First Year Medical Course in respondent 4-College for the Academic Year 1994-95.

2. The brief facts of the case are that the petitioner is an Indian non-resident residing in U.S.A. He passed High School equivalency diploma of 12 years in Fayetteville-Manilus Senior High School of New York State accredited by New York State Board of Regents Middle States Associations of Colleges and Secondary Schools in the year 1985.

3. The petitioner applied for the admission of the First Years Medical Course in respondent 4-College in the month of September 1994 along with required certificates. Respondent 4 admitted him and petitioner also paid fifty thousand dollars as admission fees as fixed by the University-respondent 1. Thereafter he started attending the classes. The examination of the I Year M.B.B.S. was going to start on 16-8-1995 and just before starting of the examination, respondent 4 informed the petitioner that the University has not approved his admission and so he was not entitled for appearing for examination. Therefore he filed a writ petition.

4. It is contended by the petitioner that the examination passed by him in New

York is equivalent to the 12 years High School Course or Pre-University Course of two years or intermediate of any University as recognised by the Association of Indian Universities. Therefore, he is eligible for the admission in the medical course in the Indian Universities. The action of the University not approving the admission of the petitioner is contrary to law and norms set out by the University and therefore he is entitled for the relief.

5. Respondent 4 is not contesting. Respondent 1 has filed counter-objections and additional objections. It is the case of respondent 1 that the certificate produced by the petitioner shows that he has passed the diploma of 12 years course which is not recognised by the Association of Indian Universities as eligible for admission to the course in India and it is only for the purpose of employment and not for studies. It is further contended the petitioner has not produced the eligible certificate after obtaining the same from the University. It is contended that the Association of Indian Universities has clarified and sent a communication to respondent 1 that it is only recognised for the purpose of employment and not for the studies. In further clarification, the Association of Indian Universities by its communication dated 8th September, 1995 stated that the petitioner has got "D" Grade in Chemistry and Biology. "D" Grade is the last pass grade and which is not equivalent to getting 50% of marks, which is not sufficient for medical course. Therefore, the candidate is ineligible for admission. It is contended by respondent 1 that therefore the University has rightly not approved the admission of the candidate.

6. In view of the above stated contentions, the important question of law that arises for consideration is whether the High School equivalency Diploma of 12 years in Fayetteville-Manilus Senior High School of New York State accredited by New York State Board of Regents Middle States Associations of College and Secondary Schools is equivalent to the twelve years High School Course or Pre-University Course of two years or intermediate of any University as recognised by the Association of Indian Universities, is eligible for medical course in India or not for the purpose of admission into Educational Institution in India.

7. The Association of Indian Universities has been made respondent 3 in the writ petition and no counter is filed controverting the allegations made in the writ petition. The learned Counsel for the petitioner has produced the book published by the Association of Indian Universities showing the equivalence of the Foreign Degrees published in the year 1987. At page 34 at Sl. No, 1, it is mentioned as follows:

By reading Column No. 1 and Column No. 3 of the above extract, it shows that 12 year High School Graduation Diploma in U.S.A. is recognised equivalent to Higher Secondary/one-year Pre-University Course where the pattern of education is 11+3 and Pre-University (two year course)/New Intermediate of any University where the degree course is of three years duration. Thus the 12 year High School Graduation Diploma is equivalent to the above stated degrees in India.

8. The learned Counsel for the University vehemently contended that this degree is recognised for the purpose of employment as per the clarification sent by respondent 3-University. It is to be noticed that the forwarded book itself shows that the foreign degrees are published as recognised in this book for the purpose of admission in India for educational institutions. When the book published by the respondent itself states that this recognition of degrees is for the purpose of education in Indian Educational Institutions and nowhere in the book it is stated that the degrees recognised are for the purpose of employment only. It is also to be noticed here that in the guidelines issued by the University, dated 1-6-1994, marked as Annexure-J, in para 2(a) under the total requirements of eligibility certificates for Foreign Nations/Indian Nationals studies abroad. "For this purpose, a list of examination recognised by the Association of Indian Universities and held equivalent to Plus 2 stage examination in India has already been provided to the Colleges during 1993-94 to determine the eligibility or otherwise of a candidate".

9. It is the case of the University that a student who passed a foreign degree recognised by the Association of Indian Universities, is eligible for admission in medical course. Thus by reading the guidelines along with the list of examination recognised by the Association of Indian Universities published in the above stated book, it is manifest that the degree held by the petitioner is equivalent to the 12 years High School Course or Pre-University Course of two years or intermediate of any University as recognised by the Association of Indian Universities. Accordingly, the petitioner is eligible for admission in respondent 4-Medical College.

10. The communication issued by the Association of Indian Universities, dated 31st July, 1995 in Column No. (vi) mentioning that the Diploma obtained by the petitioner is only for the purpose of employment is without any basis.

11. Respondent 3 also sent further communication stating that the degree obtained by the petitioner in Chemistry and Biology is less than 50% and therefore, he is not entitled, The marks certificate issued is produced as Annexure-A.

12. We have perused the Marks Certificate produced at Annexure-A, wherein Grade-D shows that marks as 65-69% i.e., above 50%. Therefore, now the later communication of respondent 3 is without any basis and contrary to the marks certificate issued by the Institutions where the petitioner has studied in the New York. Therefore, we are not able to accede with the learned Counsel for the University.

13. The learned Counsel for the University further contended that the guidelines provide that the petitioner has to obtain eligibility certificate from the University before seeking admission in the colleges under University. There is no dispute regarding the said proposition. But in the present case, the petitioner has already been admitted and paid fifty thousand dollars and has undergone study and this

Court also directed the petitioner to appear for the exams and he appeared for the examination and at this stage we do not want to disqualify on that ground.

14. In view of the above circumstances, the writ petition is allowed. Respondent 1 is directed to approve the admission of the student-petitioner and send a communication to respondent 4-College within a period of 4 weeks from the date of receipt of this order or on production of this order by the petitioner or anybody on behalf of the petitioner or the University Authorities and announce the result, if not already announced.