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**(1992) 08 KAR CK 0044**

**In the Karnataka High Court**

**Case No : Writ Petition No's. 1652 to 1981 of 1992**

Satish Dattatri

APPELLANT

Vs

University of Mysore

RESPONDENT

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**Date of Decision : 21-08-1992**

**Acts Referred:**

**Citation : (1992) ILR (Kar) 2706 : (1992) 3 KarLJ 594**

**Hon'ble Judges : Shivaraj Patil, J**

**Bench : Single Bench**

**Advocate : H.S. Jois, for the Appellant; V.C. Brahmarayappa, Stdg. Counsel for R-1 and R-2, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

Shivaraj Patil, J.—The petitioners are Engineering students studying in the National Institute of Engineering at Mysore affiliated to the University of Mysore. They are studying B.E. Engineering Course of 4 years duration spread over in 8 semesters, each Semester being of 16 weeks duration. They were permitted the change of the branch on different dates from 15-11-1991 to 22-3-1991 as per annexures C to H. They contend that they have more than 75% of attendance and that they have put in the required attendance at the College both before and after the change sought for by them was permitted and therefore they were eligible to take the III Semester Engineering Examination of the first respondent-University commencing from 22-1-1992. The University having examined the applications of the eligible candidates entitled to take examination assured the issuance of the examination admission tickets to all the petitioners and the undated hall tickets were issued to the petitioners. When the petitioners were seriously preparing for taking the examination the Memo dated 14-1-1992 was notified on the Notice Board of the office of the third respondent on 20-1 -1992 stating that as directed by the University Authorities after scrutiny of the attendance records the petitioners and others were detained in the subjects indicated against their names due to shortage of attendance as per Annexure-K.

Hence, these Writ Petitions are filed for declaring the impugned Memo-Annexure-K as null and void and as devoid of authority of law.

2. This Court on 21-1-1992 issued emergent notice regarding Rule and issued interim order as prayed for.

3. Statement of Objection is filed by respondent No. 1 contending that there are Regulations governing the Bachelor's Degree Course in Engineering (B.E.) (Four year Scheme). According to the Regulations there shall be 8 Semesters spread over in 4 academic years, each Semester having a duration of 16 weeks. The Regulations also provide for minimum attendance, internal assessment marks, etc. The Regulations as such do not provide for change of branch of study. However, Government Order No. ED 92/TEC 83 dated 29-8-1984 provides for change of branch of study subject to the conditions stated therein. Condition No. 9 specifically states that "The Principals should strictly follow the academic rules regarding the eligibility, attendance, sessional marks, last date, etc. as per the Notification of the University concerned". In the case of the petitioners the Principal of the College has permitted the petitioners to change the branches without the approval of the University and has also certified that the petitioners have put in requisite attendance. The University acted upon the certificate and issued the admission cards. But, the University having come to know that the change of Course was permitted by the Principal at the fag end of the Semester without verifying as to the requirement of attendance, having regard to the fact that the duration of each Semester would be for a period of 16 weeks, instructed that the petitioners did not satisfy the requirement of attendance to make them eligible to take the examination. Students who have changed the branch of the study during the middle or end of the Semester will have to seek permission of the University to take the examination only in those subjects in respect of which they had put in minimum percentage of attendance prescribed in the Regulations. The petitioners therefore were not entitled to take the examination in the subjects in which they had not satisfied the requirement of attendance regard being had to the course of study of each Semester is for 16 weeks. The respondent No. 1 further states that these cases of the petitioners are covered by the Decision of this Court dated 10-4-1985, passed in W.P.No. 3610/85. Thus, respondent No. 1 prays for dismissal of the Writ Petitions.

4. The third respondent though served remained unrepresented. However, on 4-8-1992 the learned Counsel for the petitioners placed a copy of the letter dated 3-8-1992 of the third respondent addressed to the Registrar of this Court before me.

5. Sri H.S.Jois, learned Counsel for the petitioners, urged:

(1) Having regard to the change of branch of study given on respective dates to the petitioners, their attendance had to be calculated from those dates and taking into consideration the attendance put in before such change of branch was given.

1. D. B. Ravi v. Director of Technical Education and Ors.

(2) Once examination admission tickets (hall tickets) were given to the petitioners they could not be denied examination on the ground that they had shortage of attendance.

(3) Once the petitioners had been registered for examination they were entitled to take examination. They can be prevented from taking the examination only if the registration is cancelled before the examinations are permitted to be taken by them.

The learned Counsel in support of his submissions has cited few Decisions, I will refer to them later.

6. Sri V.C.Brahmarayappa, learned Counsel for respondents 1 and 2 in his argument reiterated the stand taken in the Statement of Objections filed. He submitted that looking to the duration of study in each Semester for a period of 16 weeks, the petitioners were required to satisfy the requirement of attendance to make themselves eligible to take the examination. He drew my attention to the Regulations C & D in the Regulations as to the attendance and internal assessment required to be satisfied by the candidates. He stated that the controversy raised in these Writ Petitions is covered by the Decision of this Court dated 10-4-1985, passed in W.P.No. 3610/85. He contended that the petitioners cannot be permitted to take the examination in the concerned subject without satisfying the Regulations as to the attendance and other requirements. Thus, he prayed for the dismissal of the Writ Petitions.

7. Now, I proceed to consider the respective submissions of the learned Counsel on their relative merits.

8. The petitioners were permitted to change the branches of study between 15-11-1991 and 23-11-1991 as can be seen from Annexure C to H. The reading of these annexures show that the petitioners were given the change of branch at their own risk of getting the attendance and internal assessment marks. The learned Counsel for the petitioners contended that the attendance put in by the petitioners before change of the branch and after the change of the branch should be taken into consideration to judge whether they have minimum required attendance to appear for the examination. Here I think it appropriate to extract the relevant Regulations governing the Course.

Regulation A-2 reads:

"The Course shall be of four academic years duration and conducted in eight Semesters, each Semester having a duration of 16 weeks".

Regulation-C pertaining to Attendance reads:

"C-1. A candidate shall undergo the prescribed course of study in a college affiliated for the purpose.

C-2. Each semester is considered as a unit and a student shall put in a minimum of 75% of attendance in each of the subject, (Theory, Drawing & Practicals separately).

C-3 A candidate not obtaining 75% of the attendance in any subject shall not be permitted to take the semester examination in the subject.

C-4 The University Syndicate shall however have the power to condone shortage of attendance upto 15% on the recommendation of the Head of the College where the candidate is studying subject to payment of penalty as prescribed by the University.

C-5 Candidates having less than 60% attendance in any subject have to repeat the course in that particular subject".

Regulation-D deals with Internal Assessment, so far it is relevant is extracted below:

"D-1 Each subject, whether theory or practical, shall have sessional marks of 25.

D-2 (a) The sessional marks in a theory subject shall be based on two tests, normally conducted in the 8th and 12th week of each semester.

(b) Provision is made for an additional test to be conducted at the end of the semester to give an opportunity to the student to improve the sessional marks.

(c) The award of the sessional marks for a candidate shall be average of two tests chosen among the tests, including improvement test/s conducted for the candidates in the subject. Two tests chosen are the tests in which the candidate has obtained the highest and the next highest marks among the tests which he has taken.

D-3 In the case of practicals the internal assessment will be based on the work done in the respective classes".

The plain reading of the above Regulations makes it clear that each Semester has a duration of 16 weeks, each Semester is considered as a unit and a student should put in a minimum of 75% of attendance in each of the subjects. Candidates having less than 60% of attendance in any subject have to repeat the Course in that particular subject. Each subject shall have sessional marks of 25 and further the sessional marks in a theory subject shall be based on two tests conducted in the 8th and 12th week of each Semester. The attendance put in by the petitioners in other subjects before change of branch was given cannot be taken into consideration in view of the aforesaid expressed Regulations. Perhaps it is for these reasons in annexures C to H it is specifically stated that the petitioners have been given change of branch at their own risk to get attendance and internal assessment marks. This Court in W.P.No. 3610/85 had an occasion to consider similar question and has held that the petitioner in that Writ Petition was entitled to take the examination in that branch of engineering in which he had put in requisite attendance. The learned Judge in that case proceeded to say:

"If it is found that he had not put in requisite attendance in any of the branches of engineering, he will not be eligible to take examination in any of the branches".

Thus, I unhesitatingly hold that if the petitioners did not satisfy the requirement of attendance in the subjects after the change of the branch was given they were not entitled to take examination in violation of the aforesaid Regulations. In this regard I usefully quote the observations made by the Supreme Court in *A.P.CHRISTIANS MEDICAL EDUCATIONAL SOCIETY v. GOVERNMENT OF ANDHRA PRADESH*:

"Shri Venugopal suggested that we might issue appropriate directions to the University to protect the interest of the students. We do not think that we can possibly accede to the request made by Shri Venugopal on behalf of the students. Any direction of the nature sought by Shri Venugopal would be in clear transgression of the provisions of the University Act and the regulations of the University. We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the Court to disobey the laws".

9. I now turn to the Decisions referred to and relied on by the learned Counsel for the petitioners:

*I.L.R. 1980(1) - S.N.R.D. No. 19 (W.P.No. 227 of 1979 D.D. 5/6th November 1979)*, states that it is implied that after registration, candidate can be prevented from taking the examination only if the registration is cancelled before the examinations are permitted to be taken by the candidate. On the facts of the case on hand when the petitioners have not put in the required attendance to take up the examination they were detained from taking up the examination in view of the Regulations. In my opinion when there is a specific bar contained in Regulation C-3 of the Regulations that the candidates having shortage of attendance in any subject shall not be permitted to take the Semester examination in the subject and Regulation C-5 states that the candidates having less than 60% of attendance in any subject have to repeat the course in that particular subject. The Decision cited has no application to the facts of this case.

*1980(1) Karnataka Law Journal 309*, in my opinion does not help the petitioners in any way, as it was a case in which a selected candidate for the I year M.B.B.S. Course could not avail himself of the selection for the reasons beyond his control. In that situation this Court held that Rule 12 of the Karnataka Medical Colleges (Selection for Admission) Rules, 1979 did not disentitle the Selection Committee to use its discretion to extend the time. In the case of the petitioners change of branch was given at their own risk to get attendance and internal assessment marks as is evident from Annexure-C to H.

*Shri Krishnan Vs. The Kurukshetra University, Kurukshetra*, in my opinion also does not advance the case of the petitioners inasmuch as in that case the University Ordinance empowered the authorities to withdraw the certificate

regarding attendance before the examination, but once a candidate was allowed to take the examination rightly or wrongly then the statute to withdraw the candidature has worked itself out and the candidate could not be refused admission subsequently for any infirmity. In the case on hand, the petitioners were not permitted to take the examination. On the other hand, they were detained. Further, the aforesaid Decision of the Supreme Court in my opinion is on the facts and circumstances of that case.

The other Decisions cited by the learned Counsel for the petitioners are State of Madhya Pradesh and Another Vs. Kumari Nivedita Jain and Others, Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others, and A. Sudha Vs. University of Mysore and Another, In these Cases although the admissions made were not in order the candidates were allowed to continue the courses taking a sympathetic view that discontinuing their study of courses shall put their career in jeopardy. In the present case of the petitioners, there is no question of discontinuing their course of study. All that the petitioners have to do is to repeat the course in the particular subject when they have not satisfied the requirement of the attendance.

10. The discipline in the academic matters meant for maintaining standard in education does demand obedience to the Regulations which are aimed at and framed for by the academic body like the University to maintain good standard of education that too in a technical course like Engineering. The candidates who have not put in the required attendance and who have not secured the internal assessment marks in the tests conducted in accordance with the Regulations governing them, if permitted to take examination without undergoing necessary training and course of study, in my opinion shall not be in the interest of either maintaining a good standard of education or achieving par excellence in the technical field.

11. Thus, I do not find merit in these Writ Petitions. In the result, for the reasons stated, these Writ Petitions are dismissed. No costs.