

(2011) 12 KAR CK 0407

In the Karnataka High Court

Case No : Writ Petition No's. 21197 to 21200 of 2011 (EDN-RES)

Shashank Mishra, Balaguni Rachana, Balaguni Rahul Kumar and P. Krishna APPELLANT

Vs

Atreya Charitable Trust (R) and Rajiv Gandhi University of Health Sciences RESPONDENT

Date of Decision : 12-12-2011

Acts Referred:

Citation : (2011) 12 KAR CK 0407

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Vinod Prasad, for the Appellant; S.G. Pandit, Adv for R3 and Sri C.V. Krishna, for R1 and R2, for the Respondent

Judgement

S. Abdul Nazeer

1. The petitioners had joined the second respondent-college for the study of I BAMS Professional course For the academic year 2006-2007. The first, and second petitioners have completed the first and second year BAMS Professional course. It is the case of the first petitioner that he had appeared for third BAMS Professional course examination held during January, 2011 and had passed in 5 subjects and is yet to clear 2 subjects. It is the case of the second petitioner that she was not permitted to appear for the third BAMS Professional course examination held in January, 2011. The contention of third and fourth petitioners is that the college is not permitting them to appear for the supplementary examination in the failed subjects of the first and second BAMS Professional course. Therefore, they have filed these writ petitions for a mandamus directing respondent Nos. 1 and 2 not to insist/demand any fee them except the examination fee prescribed by the University and for certain other reliefs.

2. This Court has granted interim order dated 13.6.2011 permitting petitioner Nos. 1 and 2 to appear for the third BAMS Professional course supplementary examination and petitioner Nos. 3 and 4 to appear for the first and second BAMS

Professional course supplementary examination in the failed subjects. Accordingly, the petitioners have appeared for the said examination.

3. Learned Counsel appearing for the first and second respondents submits that in so far as petitioner Nos. 1 and 2 are concerned, the second respondent-college has not made any demand of money on any account from them. It is submitted that the college has no objection for the first and second petitioners to pursue their studies and appear for the examination in accordance with the relevant Regulations of the University. It is further submitted that after declaration of the results, if petitioner Nos. 1 and 2 are eligible to do the internship for a period of one year, the college will permit them to attend the internship. In so far as petitioner Nos. 3 and 4 are concerned, it is contended that they have shortage of attendance. That is why they were not permitted by the college to appear for the supplementary examination in the failed subjects of first and second BAMS Professional course.

4. Sri S.G. Pandit, learned Counsel appearing for the third respondent-University submits that when the college has permitted petitioner Nos. 3 and 4 to appear for the annual examination of the first and second BAMS Profession course, question of preventing them from appearing for the supplementary examination in the failed subjects of first and second BAMS Professional course on the ground of shortage of attendance does not arise.

5. It is clear from the stand taken by the learned Counsel for the respondents that there is no impediment for petitioner Nos. 1 and 2 to pursue their studies in the second respondent-college. In so (sic) as petitioner Nos. 3 and 4 are concerned, there is no merit in the contention of the learned Counsel for the second respondent-college that on account of shortage of attendance, they cannot be permitted to appear for the supplementary examination (sic) the failed subjects of first and second BAMS Professional course. Sri S.G. Pandit, learned Counsel has taken me through the relevant Regulations of the University, which clearly indicates that the students need not again attend the classes in the failed subjects in order to be eligible to appear for the supplementary examination in the failed subjects. Since the college has permitted them to appear for the first and second BAMS Professional course annual examination, it presupposes that they had required attendance as per the Regulations of the University, if that is so, question of preventing them from appearing for the supplementary examination in the failed subjects of first and second BAMS Professional course does not arise.

6. In the light for the aforesaid discussions, I pass the following:

ORDER

(i) The third respondent-University is directed to declare the result of the examination taken by the petitioners pursuant to the interim order of this Court on 13.6.2011 forthwith.

(ii) After the declaration of the result as above, if petitioner Nos. 1 and 2 qualify to join the internship, the college shall permit them to join the internship for a period of one year as per the relevant Regulations of the University- in case they have failed in any of the subjects, they shall be permitted to appear for the supplementary examination in the failed subjects.

(iii) In so far as petitioner Nos. 3 and 4 are concerned, after declaration of the results as above, if they are eligible to join the third BAMS Professional course, the second respondent-college is directed to permit them to join the course and complete their studies in accordance with the relevant Regulations of the University.

(iv) In case petitioner Nos. 3 and 4 fail in any of the subjects of the first and second BAMS Professional course examination, the second and third respondents shall permit them to appear for the supplementary examination in the failed subjects if it is permissible under the Regulations of "the respondent-University.

(v) Writ petitions are disposed of accordingly. No costs.