

(2014) 08 KAR CK 0138

In the Karnataka High Court

Case No : Writ Petition No. 26976/2014 (EDN-EX)

Shreya K.S.

APPELLANT

Vs

Vishvesvaraya Technological University

RESPONDENT

Date of Decision : 20-08-2014

Acts Referred:

Citation : (2014) 08 KAR CK 0138

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : Roopesha B., Advocate for the Appellant; K.S. Bharath Kumar, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

A.S. Bopanna, J.—The petitioner is before this Court seeking for issue of mandamus to direct the first respondent to consider the representation at Annexure-H and further direct the respondents to permit the petitioner to take part in the sixth semester Electronics and Communication Engineering examination in the second respondent-college.

2. The petitioner is a student of the second respondent-college studying in the sixth semester of the Electronics and Communication Engineering Branch. The petitioner contends that she has completed 1st to 5th semesters with distinction and to demonstrate the same, the petitioner has also relied upon the copies of the marks card produced as Annexures. When this was the position, the petitioner met with an accident on 01.03.2014 which resulted in spine injuries and she was admitted to Sri Sairam Hospital where she was operated and ultimately discharged on 06.03.2014, but had to be admitted to the hospital again on 24.04.2014 for the fracture that she had suffered. Due to the same, she was unable to attend the classes during the period when she was pursuing her sixth semester. The resultant effect was that the respondents have considered the case of the petitioner as a case of shortage of attendance and had not permitted the petitioner to appear for the examination. It is in that circumstance,

the petitioner is before this Court since the representation as had been made by the her was also not considered.

3. This Court by the interim order dated 12.06.2014 had directed the respondents to permit the petitioner to take up the sixth semester engineering examination which was scheduled to be held on 13.06.2014. The petitioner is stated to have appeared for the said examination but the results have not been announced.

4. At the outset, having noticed the fact situation herein, the respondents would have to be directed to announce the results of the petitioner also. Insofar as the reason for which the respondents had not permitted the petitioner to take up the examination and in that regard with reference to the Regulations, the learned counsel for respondent No. 1 would submit that even the discretion that is vested with the Vice Chancellor is only to condone the attendance to the extent of 10% and even if such discretion is exercised, in the instant case, the case of the petitioner cannot be considered favourably.

5. Taking note of the said submission and also the contention as put forth by the learned counsel for the petitioner, when it is prima facie established that the petitioner is a meritorious student and had cleared all the papers of the earlier semesters securing high marks and when the petitioner contends about the inevitable situation under which she was placed to attend the classes, the case of the petitioner would have to be considered as a "special circumstance" to condone the shortage of attendance and regularize the continuance of the petitioner in the said course.

6. The only aspect which requires consideration by the respondents is with regard to the genuineness of the documents that has been produced by the petitioner. To the said extent, respondent No. 1 is directed to secure a report from respondent No. 2 with regard to the genuineness of the medical documents which to be examined by respondent No. 2. Based on the report to be submitted by respondent No. 2 and if the genuineness of the said documents is established, respondent No. 1 is directed to pass appropriate orders to condone the shortage of attendance of the petitioner in the special facts and circumstances of the instant case.

7. To enable such consideration, a direction is issued to respondent No. 2 to secure verification of the documents relied on by the petitioner within two weeks from the date on which the copy is furnished to respondent No. 2. Respondent No. 2 shall immediately thereafter dispatch the report to respondent No. 1 for consideration in that regard. Respondent No. 1 shall take note of the report and if the genuineness of the documents is established shall pass orders to condone the absence of the petitioner and regularize the course of the petitioner. The said order shall be passed within two weeks from the date on which the records are placed before respondent No. 1.

8. If for any reason in the meanwhile, the petitioner has not been permitted to

attend the seventh semester, on declaration of the result of the sixth semester examination which was permitted by this Court and if it is found that the petitioner was eligible to move to the seventh semester, she shall be permitted to do so and non-attendance to seventh semester if any due to the present circumstance shall also be condoned and the petitioner thereafter be permitted to undergo the course and complete the same in accordance with law. The result shall be declared forthwith.

With the said direction, the petition stands disposed of.