

(2008) 11 KAR CK 0027
In the Karnataka High Court
Case No : Writ Appeal No. 1699 of 2008

Sohil Nivas Nireshwalia

APPELLANT

Vs

Visvesvararya Technological University and Others

RESPONDENT

Date of Decision : 27-11-2008

Acts Referred:

Karnataka Education Institutions (Prohibition of Capitation Fees) Rules, 1984 — Rule 3

Citation : (2009) 3 KarLJ 243 : (2009) 1 KCCR 542

Hon'ble Judges : P.D. Dinakaran, C.J.;V.G. Sabhahit, J

Bench : Division Bench

Advocate : R.L. Patil, for the Appellant; Niloufer Akbar, Government Advocate for R-3 and R-4, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Dinakaran, C.J.—The appellant in this writ appeal had filed writ petition No. 7748 of 2007 seeking for a writ of mandamus directing the 1st respondent-University to include the subject "Statistics" in the eligible optional as per Rule (3) of the Government Order dated 28.02.2006 framed under the Karnataka Education Institutions (Prohibition of Capitation Fees Act) 1984 and also to announce his result and for a further direction to the 2nd respondent-Engineering College to regularise his admission and announce his result with permission to take up the examination by considering "statistics" as an eligible optional for the next academic year.

2. Learned Counsel for the appellant submits that "statistics" has to be treated as an optional subject along with Chemistry, Biotechnology, Computer Science, Biology and Electronics and take the marks obtained by the appellant in statistics for the purpose of calculating the aggregate marks for the purpose of admission to the engineering course. He contends that non-inclusion of statistics from the list of optional subjects for the purpose of Rule 3 is absolutely arbitrary and has no nexus with the object to be achieved by Rule 3.

3. The learned Counsel for the respondent-University in the objections filed before the learned Single Judge has contended that the case of the appellant cannot be taken into consideration as he has scored only 42 per cent marks which is less than the marks prescribed for eligibility and since Statistics is not one of the subjects prescribed and the University has adopted the resolution passed by the State Government treating only Chemistry, Biotechnology, Computer Science, Biology and Electronics as optional subjects and the aggregate marks scored should be 45 per cent to be eligible for an engineering seat. Learned Counsel for the respondent-University contends that this being a policy decision, the Court cannot interfere with such a policy decision.

4. We have heard the rival contentions of the learned Counsel for the parties. As rightly contended by the learned Counsel for the respondents and held by the learned Single Judge, Courts cannot interfere in a matter of policy decision. The Supreme Court in the case of State of Rajasthan and Others Vs. Lata Arun, has held that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority . It is not for courts to decide whether a particular educational qualification should or should not. be accepted as equivalent to the qualification prescribed by the authority. It is for the University to frame rules fixing the criteria for admission to certain courses and not for this Court to say which subject should be treated as an optional subject and which should be treated as compulsory subject. It is for the academicians to decide matters pertaining to education and not for this Court to decide matters concerning academics. Our view is also fortified by the judgment of the Hon''ble Supreme Court where in it has been held that the Courts should be slow to interfere in academic selections made objectively by experts after following the prescribed procedure in the case of Osmania University represented by its Registrar, Hyderabad, A.P. Vs. Abdul Rayees Khan and Another, . Therefore, we are of the view that the learned Single Judge has rightly dismissed the writ petition and therefore, the writ appeal fails and is dismissed.