
(2017) 02 KAR CK 0051
In the Karnataka High Court
Case No : W. P. No. 7315 of 2016

Somraj Sarkar

APPELLANT

Vs

Visvesvaraya Technological University, Belagavi

RESPONDENT

Date of Decision : 27-02-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 2 AirKarR 388

Hon'ble Judges : S. Sujatha, J.

Bench : Single Bench

Advocate : Sri B. Srinivas, Advocate, for the Petitioner; Sri T.S. Venkatesh, Advocate, for the Respondent No. 1 and 2; Sri J. Sudhakar, Advocate, for the Respondent No. 3

Final Decision : Disposed Off

Judgement

S. Sujatha, J.—The Petitioner's is challenging the order dated 5.1.2016 passed by the Respondent No.2 vide Annexure-S to the writ petition, whereby the relaxation of the maximum duration to complete the Bachelor of Engineering course was not considered and consequently the results of the examination attended by the Petitioner's/student is not announced and also the student is not permitted to continue the course.

2. The Petitioner's is the student of the Respondent No.3/Institution affiliated to the Respondent No.1/University. The Petitioner's was student enrolled for B.E. course in the academic year 2005-06. It transpires that the Petitioner's was to a certain extent hindered in his goal of an excellent academican due to his health conditions, being diagnosed with Cancer of the Bone, affected in the pelvic region.

3. It is the contention of the Petitioner's that he completed all his papers of the first year course [first and second semester] in the very first attempt itself. Thereafter, he attended classes for the second year during the academic year 2006-07 and owing to health problems, could not clear the backlog subjects and

not joined third year course to pursue his further studies. Subsequently, due to the improvement in his health condition, he was able to clear the requisite number of papers which entitled him to continue the studies from the year 2011 onwards and did his third year course during 2011-12. However due to the further development of cancer related complications, he could not continue the course till the academic year 2014-15. In such circumstances, he was informed by the College authorities that he could not be permitted to appear for the examination during the month of November/December 2015 in terms of the circular dated 27.8.2010 which stipulates that the last examination permitted for the students of B.E./B.Tech course, who were admitted in the year 2005-06, is July 2015. The Petitioner's made necessary representation seeking permission to take examination till July 2017 explaining the bona fide reasons on account of which he was not able to clear the backlog subjects within the time stipulated.

4. The Petitioner's approached this Court in Writ Petition No.45492/2015 seeking for the directions to the respondents to extend the time for completing the B.E. Course in Computer Science and Engineering with the Respondent No.3 till July 2017 since the respondents failed to respond to the representation of the Petitioner's. This Court vide Order dated 17.11.2015 in Writ Petition No.45095/2015 and other connected petitions including the petition in W.P.No.45492/2015, extended the maximum duration including the students admitted in the academic year 2002 to appear for the examinations in June-July 2015 on the ground that similarly placed students have been given relaxation in the matter of maximum duration by virtue of eight circulars, the said benefit could not be denied to the similarly placed students as it is violative of equality under Article 14 of the Constitution of India. In pursuance of the same, the Petitioner's within the stipulated period of time submitted his representation for permission to appear for the VTU semester examination to be conducted in December 2015 and January 2016 and onwards till the completion of his course in July 2017 and paid the requisite examination fees and appeared for the examinations. That the Respondent No.1 vide Order dated 5.1.2016 held that the VTU has not relaxed the maximum duration to any student admitted during and after the academic year 2006-07. The Petitioner's being of the batch of the academic year 2005-06, rejected the request of the Petitioner's for grant of extension of maximum duration till July 2017.

5. The learned Counsel for the Petitioner's now placing reliance on the Notification dated 27.10.2016 issued by the Respondent No.1 would contend that the Respondent No.1 has relaxed the duration to complete the course for the students admitted during the academic year 2006-07, 2007-08 and 2008-09 and permitted them to appear for the University examinations. Applying the same yardstick, the Petitioner's who was admitted during the academic year 2005-06 also to be provided the relaxation of the maximum duration for completion of his course. It is also submitted that despite the Petitioner's having appeared for the examination during the month of December 2015, his results are not announced which would seriously affect and put an end to the future prospects of the

Petitioner"s.

6. On the other hand, learned Counsel for respondent No.1 placing reliance on the division Bench Judgment of this Court in the case of "Kokila T. C. and others v. Vice Chancellor, VTU" in W.A. Nos.888-892/2016 [DD-7.11.2016] and the co-ordinate Bench decision of this Court in the case of "Dharshan K. B. v. Visvesvarya Technological University and others" in WP No.31920/2016 [DD-10.11.2016] would contend that the Notification dated 27.10.2016 is not applicable to the facts of the present case since the Petitioner"s was admitted to the course during the academic year 2005-06 whereas the Notification specifically provides for the students admitted during the academic year 2006-07, 2007-08 and 2008-09. In similar circumstances, this Court permitted the Petitioner"s/student to make a representation to the University in the background of the said Notification, directed the University to consider the representation in accordance with law, as such if any representation is made by the Petitioner"s/student to the University to relax the maximum duration of completion of the B.E. course, the same shall be considered in accordance with law.

7. Having heard the rival submissions of the learned Counsel for the parties and perusing the material on record, it is evident that the ill-health of the Petitioner"s is the main cause in not completing the course within the stipulated period. It is also clear that the Notification dated 27.10.2016 is not strictly applicable to the facts of the present case since the Petitioner"s had taken admission during the academic year 2005-06. However, by virtue of the order passed by this Court in W.P. No.45095/2015 and other connected matters, he has taken the examinations for third, fifth and sixth semesters, the results are not yet announced.

8. In view of the relaxation given by the University to the students admitted during the year 2006-07, 2007-08 and 2008-09, a sympathetic approach has to be taken to the case of the Petitioner"s herein. In similar circumstances, this Court directed the students who have taken admission to the Engineering course prior to the academic year 2006-07 to give representation to the University to permit them to take the examination.

9. In view of the above, it is open for the Petitioner"s to approach the respondents/authorities by way of representation to permit him to relax the maximum duration for completion of the course and permit him to appear for the examination in respect of the subject in which he has failed and to seek for the declaration of results withheld by the University. If such representation is made within two weeks from the date of receipt of copy of this order, the Respondent No.1 shall consider the representation and pass orders keeping in mind the ordeal faced by the Petitioner"s due to his ill-health condition vis-vis the challenge to complete the course with all adversities. A sympathetic view shall be taken by the respondents/authorities and appropriate order shall be passed within four weeks thereafter.

With the above observation, writ petition stands disposed of.