

(2013) 04 KAR CK 0008

In the Karnataka High Court

Case No : Writ Petition No. 40025 of 2011 (EDN-RES)

Sri Mounesh Nagesh Poddar

APPELLANT

Vs

The Vice-Chancellor (Examination), Karnataka State Open
University and Others

RESPONDENT

Date of Decision : 15-04-2013

Acts Referred:

Citation : (2014) 3 AKR 31 : (2013) 3 KCCR 1975

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : Mounesh Nages Poddar, Party in Person, for the Appellant; V. Narayana Swamy for Respondents-1 and 2 and Sri R. Omkar, Additional Government Advocate for Respondent-3, for the Respondent

Judgement

B.S. Patil, J.—In this writ petition, petitioner is seeking a direction to the 1st respondent to announce his result of the Degree Course in Bachelor of Arts examination conducted during the month of May, 2010. He has also sought for extension of time to appear for the B.A. examination in the failed subjects by a period of two years. Petitioner claims that he has taken B.A., Course as a student of the Karnataka State Open University, Maanasa Gangothri, Mysore. As per the prospectus issued by the University, the maximum time limit prescribed for completing the course is double the period of the course. In the instant case, the course being of three years duration, the petitioner was required to complete the same within a period of six years.

2. Petitioner was admitted to the course in the year 2003-04. Thus, within a period of six years from the date of his admission, he ought to have completed the course. Petitioner took examination of III year B.A. course, in all five subjects, during the year 2007. The examinations were conducted during the month of May-June, 2007 and the results were announced during August, 2007. The petitioner was declared failed in all five subjects. He applied for revaluation of the answer papers of History - III and Political Science - V. He also applied for

photostat copies of the answer scripts. He was furnished with the copy of the answer script in History-III and Political Science - V. He was, however, not furnished with the answer script in the subject Economics of 11 Year B.A. course. This made the petitioner to approach this Court by filing W.P. No. 262/2009, wherein he sought a direction against the respondent - University to issue photostat copy of the answer script of Economics subject of the II Year B.A. and also to revalue the answer papers of the examination conducted by the respondent - University in Economics subject of the II Year B.A. and History - III & Political Science - V of III Year B.A. This Court noting the fact that the University had already furnished the photostat copies of the answer scripts of III Year B.A. found that as the petitioner had not furnished the requisite particulars such as registration number and the name of the examination centre from which he had written II Year B.A. examination, his request for issue of photostat copy of the answer script of examination of II Year B.A. could not be considered favourably. This Court has also found that there was nothing on record to show that the petitioner had sent a demand draft for Rs. 920/- within one year from the date of examination for the purpose of revaluation of the answer scripts. This Court dismissed the writ petition vide order dated 01.12.2009 rejecting both the requests for furnishing the photostat copies of the answer script of Economics paper of II Year B.A. and also for revaluation of the papers.

3. In the meanwhile, the respondent - University issued a Circular dated 16.09.2009 relaxing the rigor of completing the course within a period of six years by providing one final opportunity to such of the students who had not completed their degree course. This Circular made it clear that the applications in this regard had to be submitted on or before 30.09.2009 and that students intending to take the examination as per the relaxed norms had to write the examination at Mysore Centre. It was also made clear in the said Circular that no further opportunity would be given to the students to write any more examinations in that regard. Copy of the said Circular is produced at Annexure-F.

4. According to the petitioner, as he was prosecuting the writ petition and was awaiting the result of the writ petition filed in the year 2009 and as the Circular - Annexure-F came to be issued during the pendency of the writ petition, he was not able to submit application for appearing for the examination and thereafter to obtain Hall Ticket for the said examination. But, once the writ petition was disposed of declining the relief sought by the petitioner, the petitioner submitted an application to the University and took the examination conducted during the month of May-June, 2010. According to the petitioner, though he had completed six years duration, the delay in not completing the course within the stipulated period was largely due to the University not announcing the result of the examination, which the petitioner had appeared. He points out that there was delay of about two years during which time, the matter was pending before this Court and the petitioner was waiting for a favourable verdict from this Court regarding revaluation. Therefore, he claims that he is entitled for making use of the opportunity that was given to him in the month of May, 2010 for writing the

examination.

5. Learned Counsel for the respondent - University submits that as the petitioner has not submitted the application on or before 30.09.2009 as per the Circular dated 16.09.2009 and as he has not availed the final chance given to him to write the examination conducted during the year 2009, he was not entitled to take up the examination conducted during the month May-June, 2010. He further points out that the petitioner was not permitted to take the examination conducted during the month of May-June, 2010 and that the petitioner on his own had appeared for the examination by showing the receipt for having paid the examination fee.

6. Learned Additional Government Advocate submits that the petitioner having been allowed to take the examination during the month of May-June, 2010, he has to get the benefit of the examination, particularly because he was not able to submit the application on or before 30.09.2009 as per the Circular dated 16.09.2009 to avail the last chance and thereby to appear for the examination conducted during the year 2009, as he was prosecuting the writ petition filed in the year 2009.

7. Having heard the learned Counsel for the parties and on consideration of the materials on record, I find that admittedly petitioner - student had not passed the course within the period of six years prescribed by the respondent - University. The prospectus issued by the University makes it very clear that the student concerned must pass the examination within the maximum period of six years. It is also not in dispute that the respondent - University came up with relaxation for the students by providing them with an opportunity to take up one more examination to be conducted during the year 2009. Petitioner was unable to file the application within the time prescribed for availing the last chance and also to appear for the examination conducted during the year 2009, as he was prosecuting the writ petition filed in the year 2009. The said writ petition was dismissed on 01.12.2009 after the last date fixed for availing one last opportunity to pass the examination as per Annexure-F - Circular i.e. 30.09.2009. It is necessary to recall here that the petitioner has filed the earlier writ petition seeking a direction to the respondent - University to issue the photostat copies of the answer scripts and also to reevaluate the answer scripts of the examination conducted in certain subjects. The explanation offered by the petitioner that he was unable to file the application within the time stipulated to avail the last chance for taking the examination and also to appear for the examination conducted during the year 2009 because of the pendency of the writ petition and that he was bonafide pursuing his remedy before this Court deserves to be accepted.

8. As the petitioner was making a grievance in respect of the method of valuation adopted and the erratic valuation made and therefore, requesting this Court to issue a direction to the respondent - University to furnish the copies of the answer scripts and also to direct the University to revalue the papers, it cannot

be said that there was any malafide intention on the part of the petitioner or that he was in any manner grossly "negligent in availing the chance given to him to take up the examination conducted during the year, 2009. In addition, what is required to be noticed is that the petitioner has taken the examination conducted during the month of May, 2010. Though there is nothing to show that the petitioner was specifically permitted to take such examination, the fact remains that he had submitted the application and based on examination fee paid, he was allowed to write the examination. Therefore, the ends of justice and the object behind providing for such relaxation by the very University permitting the students to avail one more chance would require that the result of the examination which the petitioner has taken during the year 2010 shall be announced. Though it is contended that the answer papers have not been properly valuated and erratic marks were assigned, in the light of the opportunity that this Court intends to give to the petitioner by directing the University to announce the result of the examination which the petitioner has already taken during the month of May, 2010, I find it unnecessary to go into this aspect of the matter. In the result and for the foregoing reasons, this writ petition is allowed in part directing the respondent-University to announce the result of the examination which the petitioner has taken during May, 2010 as expeditiously as possible.