

(1999) 12 KAR CK 0017

In the Karnataka High Court

Case No : Writ Petition No's. 29931 to 29933, 27521 to 27529 and 27975 to 27978 of 1999

Sunil Acharya and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 09-12-1999

Acts Referred:

Indian Nursing Council Act, 1947 — Section 16 (g), 16 (h)
Karnataka Nurses, Midwives and Health Visitors Act, 1961 — Section 12, 3

Citation : (2000) ILR (Kar) 2228 : (2000) 4 KarLJ 445 : (2000) 4 KCCR 189 SN

Hon'ble Judges : Tirath S. Thakur, J

Bench : Single Bench

Advocate : Sri Kaleemulla Sheriff and Sri Sivarudra, for the Appellant; Sri N.P. Singhri, Govt. Pleader and Sri M.S. Padmarajaiah, for the Respondent

Judgement

1. Section 16(g) and (h) of the Indian Nursing Council Act, 1947 empower the Council established thereunder to prescribe the standard and curricula for training of nurses, midwives and health visitors as also the conditions of eligibility for admission to such courses of training. The Council has in exercise of the said power published syllabi and regulations and inter alia prescribed the terms and conditions for admission of candidates to a three years" course in General Nursing and Midwifery. These are as under:-

"Admission -- Terms and Conditions.-

1. Age for entrance shall be 17 years to 35 years. For ANM LHV age is relaxable upto 35 years, provided they meet the minimum educational requirements -- 12 years in schooling.

2. Minimum education -- All students should have passed XII class or its equivalent, preferably with science subjects.

3. Admission of students shall be once a year.

4. Students should be medically fit".

2. It is evident from the above that the minimum academic qualification is a pass in the 12th class examination or its equivalent. The expression "preferably with science subjects" clearly signifies that the student need not have necessarily studied the said subjects.

3. The Karnataka State Nursing Council has been established u/s 3 of Karnataka Nurses, Midwives and Health Visitors Act, 1961. Section 12 of the said Act enjoins upon the State Council to maintain a register of nurses, midwives and health visitors containing such particulars and divided into such parts as may be prescribed. The Act also prescribes the conditions subject to which a person may be brought on the register of nurses u/s 12 and matters related thereto. Examination for those admitted to undergo a course in General Nursing and Midwifery is conducted by Karnataka State Nursing Examination Board. The Board examines the eligibility of the candidates admitted to the course and permits those eligible to appear in its examinations.

4. The petitioners in this bunch of writ petitions were admitted to undergo the course mentioned above in different Nursing Colleges offering the said course in the State of Karnataka. Their admission when submitted to the Nursing Examination Board failed to meet its approval primarily because the academic qualification acquired by them had not been recognised as equivalent to a Class 12 examination in terms of the Curricula and the Regulations framed by the Indian Nursing Council. Aggrieved, the petitioners have filed the present writ petitions for a mandamus directing the respondents to approve their admission and to permit them to complete the course.

5. It is not in dispute that the petitioners have not passed the 12th standard examination offered by any State Board of Examination or other examining body anywhere in the country. It is however not denied that they have passed the 10th standard examination whereafter they were admitted to undergo a two year vocational course in Institutions recognised by Rajasthan Higher Secondary Board. It is also not disputed that the petitioners have successfully completed the said course and passed the examination prescribed for the same from the Board of Secondary Education, Rajasthan. The question then is whether the qualification so acquired by the petitioners can be said to be equivalent to the 12th standard examination prescribed by the Indian Nursing Council as one of the essential conditions for admission to the Course. It was argued by Mr. Sheriff, Counsel appearing for the petitioners, that Indian Nursing Council as also the Karnataka State Nursing Council had recognised the vocational higher secondary examination conducted by the Vocational Higher Secondary Board of Kerala as a qualifying examination prescribed by the Regulations of the Indian Nursing Council. This, according to the learned Counsel, implied that passing of the 12th standard academic examination was not essential. Any other examination, which could be treated to be equivalent to the said examination could also suffice. Insofar as the Vocational Higher Secondary Examination offered by the Rajasthan

Board of Secondary Education is concerned, the same was, according to the petitioners, equivalent to the 12th standard examination offered by the said Board. This was so as per a communication addressed by the Secretary of the Board to the Principal of Smt. Vasantha Diploma General Nursing and Midwifery College, Bidar, a copy whereof has been produced as Annexure-F to the writ petitions. It was contended that since the vocational course undergone by the petitioners was treated to be equivalent to 12th standard examination by the Secondary Board of Education, Rajasthan, there was no question of the said course being denied recognition by the respondent-Nursing Board of Examination or the Karnataka State Nursing Council.

6. Mr. Singhri, Government Advocate, on the other hand, contended that the decision of this Court in *Litha Thomas and Others v The Secretary, Department of Health and Family Welfare, Government of Karnataka, Bangalore and Others*, recognised the Vocational Courses from the State of Kerala alone for purposes of admission to the Nursing and Midwifery courses in Karnataka. All other similar Vocational Courses offered elsewhere in the country were, according to Mr. Singhri excluded and could not therefore be treated equivalent to the 12th standard examination prescribed by the Indian Nursing Council.

7. The Indian Nursing Council Act, 1947 not only envisages a Central Nursing Council, but empowers the said Council to prescribe standard curricula of training of nurses, midwives and health visitors and conditions for admissions to Institutions offering such training. The curricula and the conditions prescribed by the Council in exercise of the said power would therefore be binding on all other authorities established under any State Legislation. That is precisely why Karnataka State Nursing Council has not on its own prescribed any conditions of eligibility for admission of candidates to such courses. It has applied the norms and the standards prescribed by the Central Nursing Council in the matter of registration of those possessing the requisite qualification and matters related thereto. Even the State Nursing Examination Board also looks up to the norms and the conditions of eligibility prescribed by the Central Nursing Council for purposes of approving or declining approval to admissions made to Institutions offering such course. What is significant is that the regulations framed by the Indian Nursing Council prescribing the conditions of eligibility for admission only refers to the minimum educational qualification, which as noticed earlier has to be a pass in the 12th standard examination. The regulation does not go further to state that 12th standard examination offered by any particular Board or other examining body in the country alone would be recognised for purposes of admissions. This would imply that a 12th standard examination offered by any State Board of Examination in the country would within the meaning of the regulation prescribed by the Indian Nursing Council be sufficient for admission to the Nursing Course. The difficulty however is that the petitioners have not passed the 12th standard examination from any State Board. They claim to have a qualification, which is equivalent to the said examination. The regulation is however explicit in making every qualification equivalent to 12th standard also

sufficient for purposes of admission. It is either a 12th standard examination or an examination equivalent thereto, which is, according to the norms of the Nursing Council, sufficient for purposes of admission. The question then is whether the vocational courses, which the petitioners have undergone can be treated to be equivalent to the 12th standard examination of the Higher Secondary Board of Rajasthan. The regulations of the Central Council do not by themselves specify or enumerate the equivalent examinations. According to the objections filed on behalf of the Council, the equivalence of the qualification possessed by a candidate is left to be determined either by the State Nursing Council or by the Nursing Examination Board. The Nursing Council of India is not in the Scheme of the Act and the regulations framed by it required to determine the equivalence of the academic qualification for purposes of determining the eligibility of the candidates. That does appear to be so. With the exception of the vocational courses offered in Kerala, the Central Nursing Council has not gone into the question of equivalence of any other vocational course with the 12th standard examination. The issue therefore ought to have been examined at the State Examination Board level only. This has not been done, ostensibly because the Board has understood the decision of this Court in the batch of cases referred to earlier to mean that candidates with vocational course from Kerala alone are eligible for admission in Karnataka. That however is not a correct perception in regard to the ratio of the said decision. A careful reading of the decision would show that this Court relying upon the communication received from the Central Council, had found the candidates from Kerala with vocational qualification to be eligible. The Court did not go into the question whether similar other courses offered in the country would also qualify for being treated as equivalent to 12th standard examination. The declaration made in the said decision was positive in the sense that it accepted vocational qualifications from Kerala to be equivalent to 12th standard examination. It was never meant to declare qualifications from other parts of the country to be insufficient.

8. The next question then is whether the State Board of Examination can decline to accept the vocational examinations offered by the Higher Secondary Board of Education, Rajasthan. An answer to that is clearly found in the communication received from the Higher Secondary Board of Education, Rajasthan referred to earlier. The communication makes the following significant statement:-

"In reference to the above cited subject and your letter dated 8-11-1998 we hereby clarify that the Senior Secondary Examination (Vocational) conducted by this Board has been considered equivalent to the Senior Secondary (Academic) since 1995".

9. It is evident from the above that the Secondary Board of Examination, Rajasthan from where the petitioners have passed their Vocational Courses treats the said Courses to be equivalent to Senior Secondary (Academic), which admittedly implies the 12th standard examination. In other words, the Secondary Board of Education, Rajasthan from where the petitioners have

passed out treats the vocational course and the 12th standard examination to be equivalent. That being so, the equivalence granted by the said Board would satisfy the requirements of the regulations framed by the Indian Nursing Council. If a student, who has passed his 12th standard examination from the Board of Secondary Education, Rajasthan, is eligible in terms of the Indian Nursing Council Regulation, there is no reason why, one who has passed an equivalent examination from the same Board should be ineligible. That is especially so when neither the State Nursing Council nor the Examination Board has either examined the issue of equivalence or otherwise indicated any cogent reason why the same cannot be granted. Viewed thus, the refusal on the part of the respondent-Examination Board to approve the admission of the petitioners was not justified.

10. In the result, these petitions succeed and are hereby allowed with a direction to the 3rd respondent-Board to approve the admissions of the petitioners and to declare the result of the examination, which the petitioners have already taken pursuant to interim directions issued by this Court. There shall however be no orders as to costs.