
(1990) 01 KAR CK 0045

In the Karnataka High Court

Case No : Writ Petition Nos. 6897 to 6901 of 1989

Tajunnissa and Others

APPELLANT

Vs

Bangalore University, Bangalore

RESPONDENT

Date of Decision : 10-01-1990

Acts Referred:

Citation : (1991) 4 KarLJ 443

Hon'ble Judges : H. G. Balakrishna, J

Judgement

1. The petitioners in all these writ petitions are students of B.Ed. Degree Course of Sanjay Gandhi College of Education, Bangalore. They have completed one year Degree Course in B.Ed. having been admitted in July 1988 by the said College. It is also stated that they have undergone one year course with practical experience in teaching and are eligible in all respects to appear for final examination of B.Ed. Course. By an order dated 23-3-1989 the respondent rejected the applications for approval of admission of 29 students for various reasons. These petitioners are also belonging to the category of rejected students. Hence, the petitioners are aggrieved.

2. The contention of the learned counsel appearing for the petitioners is that if the policy of the Government is to allow students belonging to Scheduled Castes and Scheduled Tribes securing 40% marks to be admitted, there is no reason how such a discrimination could be made in respect of the petitioners so long as the seats earmarked for reserved category are not filled up by them. It is contended that the respondent University has made hostile discrimination insofar as the petitioners are concerned and that such a discrimination infracts Regulation 2 of the Regulations for the B.Ed. Degree Course. It is further contended that, according to the said Regulation 2 insofar as candidates belonging to the service are concerned, the eligibility is lowered upto 35% marks which, according to the learned counsel, is an impermissible classification. It is also contended that, reading Regulation 1 along with Regulation 2, the only possible conclusion that could be reached is that the relaxation of marks is in

respect of candidates belonging to the unreserved category from 45% to 40% and, if any of the reserved seats are not filled due to non-availability of eligible candidates, the same may be filled by other eligible candidates from the unreserved category.

3. The stance taken by the learned counsel appearing for the petitioners is contradicted by the learned Standing Counsel appearing for the Bangalore University firstly on factual basis and secondly on an interpretation of Regulation 2. In the factual analysis, it is submitted that petitioners 1 to 5 have secured 41.5%, 39.25%, 43.78%, 40.78% and 40.25% marks respectively in the qualifying final year degree examinations and, therefore, the petitioners do not possess the minimum percentage of 45% marks which is mandatory under the Regulations governing the B.Ed. Degree Course with the added disability that none of the petitioners belongs to either Scheduled Castes or Scheduled Tribes nor even to the Backward Classes and, therefore, are not entitled for any relaxation of the minimum of 45% marks in the qualifying examination. While interpreting Regulation 2 read with Regulation 1, it was submitted that the claim of the petitioners that they are entitled to relaxation of minimum percentage of marks from 45 to 40 as in the case of Scheduled Castes or Scheduled Tribes or Backward Classes and in service teachers, is wholly untenable because such a concession is extended in consonance with Article 15(2) of the Constitution of India and there is no such nexus insofar as the petitioners are concerned. It is urged that the petitioners had to be repelled as candidates not approved for admission directing the college to discharge them from the course purely on the basis of ineligibility of the petitioners. Additionally, it is also pleaded that the writ petitions were filed after the examinations commenced on 4-4-1989 and, therefore, the inordinate delay also should be taken note of by the court in exercising the extraordinary jurisdiction under Article 226 of the Constitution.

4. Regulations 1 and 2 read as follows:

"Regulation 1: A candidate who has passed the Degree Examination of the Universities of Karnataka or any other University recognised as equivalent thereto obtaining 45% (40% in the case of candidates belonging to the SCs/STs) of the aggregate marks in the final year of the Degree Examination or the equivalent examination shall be eligible for admission to the B.Ed., Degree provided (a) xxx xxx (b) xxx xxx (c) xxx xxx

Regulation 2: The reservation of seats to the candidates belonging to SCs, STs, etc., shall be made as per the G.Os. issued from time to time. The requirement of 45% may be relaxed to the extent if the required number of candidates are not available in the respective categories for which reservations are made. The relaxation of marks should not go below 40%. If any of the reserved seats are not filled due to non-availability of eligible candidates, the same may be filled by other eligible candidates from the unreserved category."

5. The above Regulations undoubtedly refer to provisions intended for protective

discrimination exclusively to the benefit of the Scheduled Castes or Scheduled Tribes suffering from graded inequality in social life. The fact that the petitioners do not belong to these categories is not in dispute. A plain reading of both Regulations 1 and 2 leads me to the conclusion that candidates from the unreserved category could walk into the area left open on account of non-availability of eligible candidates from among Scheduled Castes or Scheduled Tribes and in no other circumstance. Though in Regulation 1 it is laid down that a candidate who has passed the Degree Examination of the Universities of Karnataka or any other University recognised as equivalent thereto obtaining 45% of the aggregate marks as well as a candidate belonging to the Scheduled Castes or Scheduled Tribes who has passed obtaining 40% of the aggregate marks in the final year of the Degree Examination or the equivalent Examination shall be eligible for admission to the B.Ed. Degree Course, under Regulation 2 which amplifies and clarifies the provision in Regulation 1 envisages that the requirement of 45% may be relaxed in respect of the reserved seats to the extent if the required number of candidates are not available in the reserved categories for which reservations are intended and made. It is also provided in Regulation 2 that the relaxation of marks should not go below 40%. It is further provided that should the reserved seats be not filled on account of nonavailability of eligible candidates, the same shall be filled by other candidates eligible from the unreserved category. According to Regulation 1, candidates belonging to the non-reserved category should obtain a minimum percentage of 45 marks. It is only in respect of these candidates, it is sought to be made out by the learned counsel appearing for the petitioners, that relaxation is permissible upto 40%. This, I am afraid, is wholly inconsistent with both the substance and spirit of Regulations 1 and 2 read together. The relaxation is only in regard to the reservation of seats to the candidates belonging to the Scheduled Castes and Scheduled Tribes and the petitioners cannot take advantage of such a relaxation or concession which is solely and exclusively intended to the reserved categories. As rightly pointed out by the learned Standing Counsel for the Bangalore University, the very object of Article 15(2) of the Constitution would become redundant if such a relaxation is permissible.

6. On facts, the petitioners neither belong to Scheduled Castes nor Scheduled Tribes and the percentage of marks they have secured fall below 45% which is the prescribed minimum for candidates belonging to unreserved category. Any amount of stretching or expansion of the language of Regulations 1 and 2 would not bring comfort to the petitioners in the circumstances mentioned above. I do not see any substance in the contention that the classification is not based on any rational or intelligible principle and hence relaxation should be made in respect of the petitioners so long as the seats meant for reserved category are not filled up by the candidates belonging to the said category. The answer is to be found in Regulation 2 itself which provides that if any of the reserved seats are not filled due to non-availability of eligible candidates, the same may be filled by other eligible candidates from the unreserved category. The accent is on the

word "eligible" which means having secured the minimum of 45% of the aggregate marks in the final year of the Degree Examination or the equivalent examination.

7. Alternatively, it was submitted by the learned counsel appearing for the petitioners that these petitioners have appeared for the final year examination of the B.Ed. Degree Course and, at this distance of time, they should not be denied the benefits of the examination when they have almost reached the end of the journey and are about to pass out of the portals of the college. There can be no ambivalence in the matter of maintenance of academic standards and quality of academic life. Dilution of the standards in purported exercise of sympathy would be misplaced even though it may be conceded that a Judgment is not a product of pitiless conclusion or remorseless logic. In exercising the extraordinary jurisdiction under Article 226 of the Constitution, the court cannot disregard the intendment of academic legislation in preference to individual needs of the petitioners in distress. It does not, however, mean that the authorities of the University are precluded from exercising their discretion should they consider that these are fit cases in which the rigors and rigidity of law ought to be relaxed. Beyond this, nothing remains to be done insofar as these writ petitions are concerned.

8. The additional factor of the petitioners having sat on the fence watching until the examinations commenced with effect from 4-4-1989, cannot be lost sight of. Admittedly, there is delay in approaching this court. Though, on the ground of laches, I am not taking a view detrimental to the interest of the petitioners, it is only a pointer to the conduct of the petitioners invoking the aid of equity.

9. For the reasons stated above, these writ petitions fail and are, therefore, dismissed.