
(1995) 02 AP CK 0035

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22595 of 1994

T.S. Ramesh Chandra and others

APPELLANT

Vs

Andhra Pradesh Agricultural University, Hyderabad

RESPONDENT

Date of Decision : 08-02-1995

Acts Referred:

Andhra Pradesh Agricultural University Act, 1963 — Section 21, 22, 22(2), 23(2), 3
Andhra Pradesh Agricultural University Admission to (P.G. Courses at M.Sc. Level)
Regulations, 1989 — Regulation 2
Constitution of India, 1950 — Article 14, 226, 371D

Citation : AIR 1995 AP 343 : (1995) 1 ALT 275 : (1995) 1 APLJ 394

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

Advocate : K. Pratap Reddy, for the Appellant; B. Siva Reddy, Standing Council, for APAU, for the Respondent

Judgement

1. The petitioners 1 and 2 are gentlemen and the petitioner No. 3 is a lady and they have filed this common and joint writ petition seeking a declaration that the whole process of selection adopted by the respondent-University for selection of the candidates for admission to M.V.Sc., course for the academic year 1994-95 is illegal, arbitrary and without jurisdiction. Further, the petitioners have sought for a direction to the respondent-University to re-enact the whole admission process by increasing the total number of seats in the Faculty of Veterinary. Science to 80 and to make admission strictly in conformity with the provisions of Andhra Pradesh Educational Institutions (Regulation of Admissions) Order, 1974 as amendment by G.O.P. No. 646 dated 10th July, 1979, which is hereinafter shortly referred to as "the Presidential Order".

2. All the petitioners are graduates in Veterinary Science possessing B.V.Sc., degree. All the petitioners with intention to seek admission to Post-Graduate Course in the Faculty of Veterinary Science of the respondent-University appeared for the entrance examination conducted for the academic year 1994-95. In. the entrance examination the petitioner No. 1 got 59th rank; the

petitioner No. 2 69th rank and the petitioner No. 3 72nd rank. The University invited applications for admission to Post-Graduate courses in the Faculty of Veterinary Science for the academic year 1994-95. At this stage itself it is relevant to note that earlier to the academic year 1994-95, 80 seats in total were available for admission in the following 17 major fields of studies in the Faculty of Veterinary Science :

1. Anatomy (ANA)
2. Nutrition (NUT)
3. Animal Reproduction & Gynaecology (ARG)
4. Dairy Production (DPR)
5. Dairy Technology (DTC)
6. Feed & Fodder Technology (FFT)
7. Genetics & Animal Breeding (GAB)
8. Meat Sciences & Technology (MST)
9. Medicine (MED)
10. Micro Biology (MIC)
11. Parasitology (PAR)
12. Pathology (PTH)
13. Pharmacology & Toxicology (TOX)
14. Physiology (PHY)
15. Poultry Science (POU)
16. Surgery (SRG)
17. Extension Education (EXT)

The total number of seats were reduced by the respondent-University from 80 to 72 for the academic year 1994-95.

3. The petitioners 1 and 2 sought admission to M.V.Sc., Post-Graduate course in Dairy Production (DPR) whereas the petitioner No. 3 sought admission to M.V.Sc., Post-Graduate degree course in Micro Biology (MIC) and all of them are not given admission, Hence they have filed this common writ petition seeking reliefs referred to above. A detailed counter is filed on behalf of the respondent-University contesting the claim of the petitioners.

4. Sri K. Pratap Reddy, the learned senior counsel appearing for the petitioners firstly contended that the whole process of admission adopted by the University was vitiated on account of the failure of the University to provide reservation of

30% of the seats in favour of women candidates as required under the provisions of the Andhra Pradesh Professional Educational Institutions (Regulation of Admissions into Under Graduate Professional Course through Common Entrance Test) Rules, 1993. When the Court pointed out to the learned counsel that those Rules are not applicable for admission into the Post Graduate Professional Courses, the learned senior counsel did not pursue that argument and press the same. However, it should be noted that there is no merit in this contention taken by the petitioners because the Andhra Pradesh Professional Educational Institutions (Regulation of admissions into Under Graduate Professional courses through Common Entrance Test) Rules, 1993 are applicable for admissions into under-graduate professional courses through common entrance test only and not to the admission into the Post-Graduate professional courses.

5. Sri Pratap Reddy, the learned senior counsel next contended that the action of the respondent-University in reducing the total number of seats in 17 major fields of studies in the Faculty of Veterinary Science from 80 to 72 is totally arbitrary, unreasonable, whimsical offending Article 14 of the Constitution of India. According to him if the seats were not reduced from 80 to 72, 68 seats would have fallen to the share of "Locals" and 12 for "non-Locals" and the petitioners would have got admission as "Locals". Sri Pratap Reddy, the learned senior counsel with his usual persuasion and vehemence would submit that: human knowledge in every branch of knowledge is ever expanding and the number of eligible candidates seeking admission to expertise themselves in different branches of knowledge is also ever increasing and in that view of the matter and in the light of the social realities there is every reason to increase the total number of seats in the Faculty of Veterinary Science and the impugned action of the respondent-University in reducing the total number of seats in the faculty is definitely a retrograde step. Further Sri Pratap Reddy, the learned senior counsel submitted that in the counter filed by the respondent-University it is stated that the total number of seats in the Faculty of Veterinary Science were reduced from 80 to 72 on account of the dearth of necessary staff to handle Post-Graduate courses at the colleges of Veterinary Science and this reason given by the University is belied by the fact that the similar situation was obtaining for more than a decade in the past and the University admittedly has taken steps to fill up the teaching posts in the concerned faculty. For all these reasons Sri Pratap Reddy, the learned senior counsel appealed to the Court to disapprove the action of the respondent-University for reducing the total number of seats from 80 to 72. Thirdly, Sri Pratap Reddy submitted that 85% of seats in the Faculty of Veterinary Science are required to be reserved for the "Locals" as per the provisions of the Presidential Order and in that view of the matter the University should have allotted 61 seats to the "Locals" whereas it has admitted only 54 candidates applying reservation subjectwise and disciplinewise and not facultywise and therefore the procedure adopted by the University is objectionable and illegal.

Sri Pratap Reddy, the learned senior counsel lastly contended that even assuming

but not admitting that the "Locals" are entitled to only 54 seats, even then the University has committed a serious mistake in allotting seats to the three Universities. He would submit that under the Presidential Order the University is required to allot 42%, 36% and 22% of total number of seats reserved for the "Locals" to Andhra University, Osmania University and Sri Venkateswara University respectively and if the ratio prescribed under the Presidential Order was strictly adhered to the University would have allotted 23, 19 and 12 seats for the Andhra University, Osmania University and Sri Venkateswara University respectively whereas the University has allotted 26, 22 and 13 seats to Andhra University, Osmania University and Sri Venkateswara University respectively and therefore the University has committed a serious irregularity and mistake even in allotting the seats to the concerned Universities.

6. Sri B. Siva Reddy, the learned standing counsel for the University on the other hand supported the action of the University and submitted that the writ petition was misconceived and the petitioners have no vested right to command the University that it would not reduce the number of seats available for admission to the Post-Graduate courses in the Faculty of Veterinary Science. Sri Siva Reddy, the learned standing counsel for the University would highlight that none of the Constitutional or Statutory or common law rights of the petitioners are violated or impaired and therefore the petitioners are not entitled to seek a writ of mandamus.

7. The first question to be considered is whether the respondent-University acted illegally in reducing the total number of seats in the Faculty of Veterinary Science from 80 to 72. At the outset it is relevant to note that the respondent-University is a creature of the Statute i.e., the Andhra Pradesh Agricultural University Act, 1963, for short "the Act". Section 3 of the Act deals with constitution of the University, consisting of a Chancellor, a Vice-Chancellor, a Board of Management and an Academic Council and declares that the University shall be a body corporate having perpetual succession and a common seal and shall sue and be sued by the said name. Section 4 of the Act deals with the objects of the University whereas Section 6 deals with the powers and functions of the University. Section 21 of the Act deals with the Constitution of the Academic Council. It consists of the Vice-Chancellor of the University; the Vice-Chancellors of the Andhra University, the Osmania University and Sri Venkateswara University; the Director of Agriculture; the Director of Animal Husbandry; the Director Agricultural Experiment Stations; the Director of Extension; the Dean of the Indian Veterinary Research Institute; the Dean of the various Faculties; the Dean of Student Affairs; the Heads of Departments of the various Faculties; the Professors of the University; and the Principals of the University colleges. At the time of hearing the learned standing counsel for the University submitted that the Academic Council consists of more than 100 members. It is relevant to note that the Academic Council consists of experts in academic fields drawn from different fields and disciplines and they represent all the interests which are relevant and germane for formulation of policies in the field of academics.

Section 22 deals with the powers, functions and duties of the Academic Council. Sub-section (2) of Section 22 of the Act arms the Academic Council with the power to formulate, modify, revise or rescind schemes in connection with the constitution or reconstitution of departments of teaching, research and extension and to make recommendation to the Board regarding the Post-Graduate teaching, research and extension. Sub-section (2) of Section 22 of the Act also arms the Academic Council to make regulations regarding the admission of students to the University. Further Section 40 of the Act provides that the Authorities created under the Act (the Academic Council being one such Authority) may make Regulations consistent with the Act and the statutes for all or any other matters which by the Act and the statutes are to be provided for by the regulations, and also for any other matter solely concerning such Authorities and not so provided. The Academic Council by virtue of the power conferred upon it u/s 22(2)(d) of the Act has framed the Regulations called the Andhra Pradesh Agricultural University Admission (to P. G. courses at M.Sc., level) Regulations, 1989, hereinafter shortly referred to as "the Regulations". Regulation 2 provides that the number of seats for admission to P. G. courses at M.Sc., level in various major fields in the faculties of Agriculture, veterinary Science and Home Science shall be decided by the Academic Council from time to time. In exercise of the power granted to the Academic Council under Regulation 2 of the Regulations, the total number of seats in the faculty of Veterinary Sciences has been reduced from 80 to 72. The reference to the provisions of the Act and the Regulations is to indicate that the Academic Council has the necessary power and competence to determine the total number of seats in any discipline or in a faculty and therefore it cannot be said that the Academic Council of the University acted illegally or ultra vires of the statute when it decided to reduce the total number of seats in the faculty Veterinary Sciences from 80 to 72. It is also relevant to note at this stage that the validity of Regulation 2 which enables the Academic Council to determine the total number of seats in any discipline or in a faculty is not questioned in this writ petition.

8. Even otherwise the action of the Academic Council in reducing the number of seats from 80 to 72 cannot be termed as arbitrary or unreasonable. In the counter filed by the respondent-University it is stated that the Academic Council of the University at its meeting held on 7-7-1994 decided not to admit any students into M.V.Sc. programme in Pharmacology and Toxicology (4 seats) during 1994-95 and also to reduce the intake in M.V.Sc. (Dairy Production) course from 8 seats to 6 seats during 1994-95 in view of the dearth of staff to handle Post-Graduate courses at colleges of Veterinary Science, Rajendranagar and Tirupati. It is further stated that in view of the fact that B.Tech. (Dairying) programme has been in operation for quite some time the Academic Council at its meeting held on 5-4-1994 decided to start M.Tech (Dairying) and M.Sc. (Dairying) programmes during 1994-95 with an intake of 4 and 2 seats respectively at the College of Veterinary Science, Tirupati and also to discontinue the M.V.Sc. degree programme in Dairy Technology and these changes approved

by the Academic Council were also incorporated in the prospectus pertaining to M.Sc. level courses in the faculty of Veterinary Science for the year 1994-95 and the prospectus was supplied to the candidates with the application form issued to them in the month of September/October, 1994. The reasons given by the University to reduce the intake in certain disciplines and for abandoning certain disciplines and creating certain disciplines cannot be termed as arbitrary unreasonable so as to violate postulates of Article 14 of the Constitution. These are all academic matters and this Court normally accepts the policy decisions of the University unless such a decision is shown to be ultravires of the Act or tainted by mala fide or there is an error apparent on its face. The expediency and utility of the action of the respondent University in reducing the total intake from 80 to 72 for the academic year 1994-95, in my considered opinion, cannot be reviewed with any legally permissible rational tests or standards. As already pointed out supra, the Academic Council of the University consists of more than 100 persons who are supposed to be experts in their respective fields and they are drawn from different and varied fields and disciplines and a collective decision, a policy decision taken by such a large expert body cannot be interfered with lightly by this Court. The authorities are not wanting in this regard. The Apex Court itself in the case -- Suman Gupta and Others Vs. State of Jammu & Kashmir and Others, ; and in the case Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others, held that the Court would not interfere in an academic matter involving a policy decision. Further the Supreme Court in the case of Jawaharlal Nehru University Students' Union Vs. Jawaharlal Nehru University and Another, expressed the similar opinion. The Supreme Court in the case of Dr. M.C. Gupta and Others Vs. Dr. Arun Kumar Gupta and Others, , in P.K. Ramachandra Iyer and Others Vs. Union of India (UOI) and Others, ; in State of Bihar and Others Vs. Dr. Asis Kumar Mukherjee and Others, and Javid Rasool Bhat and Others Vs. State of Jammu and Kashmir and Others, has ruled that the Court would not interfere with the evaluation of merits by experts in the University and this Court would interfere only in a case where an action of the University is ultra-vires of the Constitution or the statute or is tainted by mala fide. Therefore the argument of the learned senior counsel for the petitioners that the respondent-University acted illegally in reducing the total intake from 80 to 72 in the faculty of Veterinary Science for the academic year 1994-95 should fail.

9. The other argument of the learned counsel for the petitioners is that the 85% of reservation in favour of "Locals" as required under the provisions of the Presidential Order is required to be made with reference to the total number of seats available in the faculty of Veterinary Science and not with reference to an individual course of study, Sri Pratap Reddy, the learned senior counsel submitted that assuming that the reduction of total number of seats to 72 is justified, even then the University should have allotted 61 seats to "Locals" it being 85% of 72 whereas the "Locals" were given only 54 seats by the University by adopting the procedure of applying 85% of reservation disciplinewise. I do not find any merit

in this submission also. In the Presidential Order (G.S.R. 299 (E) dt. 1st July, 1974 issued under clauses (1) and (2) of Article 371D of the Constitution of India, in Clause 6 it is provided that admissions to 85% of the available seats in every course of study provided by a Statewise University or State-wise Educational Institution shall be reserved in favour of and located among the local candidates. Even Illustration A, B, C, D given in the Presidential Order G.O.P. No. 646 dt. 10th July, 1979 also speak of 85% of reservation in favour of "Locals" in a course of study." Nowhere in the Presidential Order issued under Article 371-D of the Constitution of India, 85% of reservation in favour of the "Locals" is contemplated facultywise. 85% of reservation in favour of "Locals" is contemplated in a "course of study". Added to this it is also relevant to note that the term "Faculty" is defined in clause (f) of Section 2 of the Act to mean a Faculty of the University, sub-section (2) of Section 23 of the Act provides that each Faculty shall comprise such departments with such assignment of subjects of study as may be prescribed. Of course, the words "the course of study" do not find a place either u/s 23 of the Act or in any other provisions of the Act. However, it should be noted that a subject of study is nothing but a course of study and both mean the same thing. Therefore the Act itself contemplates that a Faculty of the University may consist of more than one subject of study or a course of study. It is not the case and it cannot be the case of the petitioners that the Faculty of Veterinary science consists or should consist of only one subject of study or a course of study. As already pointed out supra that before the academic year 1994, there were as many as 17 subjects of studies or courses of studies and in the academic year 1994-95 two courses of studies are abandoned and consequently the Faculty of Veterinary Science for the academic year 1994-95 consists of 15 courses of studies, styled as "Major fields of studies". When the Presidential Orders issued under Article 371-D of the Constitution of India specifically provide for 85% reservation in favour of the "locals" in a course of study and when the Act also contemplates more than one course of study in a Faculty of the University and when the Faculty of Veterinary Science in fact consists of 15 different courses of studies, it cannot be said that the University acted illegally or in violation of the provisions of the "Presidential Orders" or that of the Act in applying 85 percentage of reservation in favour of "Locals", disciplinewise or subjectwise.

10. Having held that the University is justified in applying reservation of 85% in favour of "Locals" subjectwise or disciplinewise, the next question to be considered is whether the University acted legally in allotting only 54 seats to the "Locals". Proviso to sub-clause (1) of Clause 6 of the Presidential Order (G.S.R. 299) (E) provides that eighty five per cent reservation provided for "Locals" shall not apply in relation to any course of study in which the total number of available seats does not exceed three.

11. The counter filed by the respondent-University and the statements enclosed therewith show that only two seats are available in the courses of Anatomy, Physiology and Veterinary Extension Education. Therefore in the light of this

proviso seats could not be reserved in favour of "Locals" in these three courses of studies. In the remaining 12 courses of studies where the number of seats ranged from 4 to 8, one seat is left as unreserved and where the number of seats are above 8, two seats are left as unreserved as per the percentage specified in the Presidential Orders and thus a total of 18 seats in all the 15 courses of studies have been left as unreserved and filled accordingly. In that view of the matter it should be held that the procedure adopted by the University for admission of the students to different 15 courses of studies in the Faculty of Veterinary Sciences is valid, proper and in accordance with the provisions of the Presidential Orders and the provisions of the Act and the Regulations framed thereunder. There is no merit in any of the contentions advanced on behalf of the petitioners and they should fail.

12. Sri B. Siva Reddy, the learned standing counsel for the University is right in contending that the petitioners have no vested right to command that the University should not reduce the total number of seats in the Faculty of Veterinary Science from 80 to 72. The Academic Council of the University, as noted supra, is armed with necessary power by the Act itself to determine the intake in any course of study, further whether the intake should be fixed at a particular number in a course of study is essentially for the University to determine that question after assessing the need and requirement and the facilities available in the University and this is not a field where the Court can possibly reassess the merits of the decision of the University and substitute its decision in the place of the decision taken by the University. The Court does not find any legally permissible and manageable rational criteria or standards to review such a decision, that decision being a policy decision dealing with pure academic matter.

13. No relief can be granted to the writ petitioners. It is not the case of the writ petitioners that any of the "Local" who has secured tower rank than the petitioners in the entrance test has been given admission in the subject of Dairy Production or in the subject of Microbiology against the quota reserved for "Locals". In the subject of Dairy Production there are six seats. Similarly in the subject of Microbiology there are six seats. Sri Siva Reddy, the learned standing counsel for the University submitted that only the candidates having higher rankings than the writ petitioners were given admission in the subjects of Dairy Production and Microbiology against the quota earmarked for "Locals".

14. Before concluding, one more point argued by Sri R. Pratap Reddy, the learned senior counsel should be noted. The larger question raised and posed to the Court by the learned senior counsel that whether the respondent-University is justified and acted legally in reducing the total intake of seats from 80 to 72 having regard to the un-disputable fact that the human knowledge in every branch and discipline is ever expanding necessitating to evolve and open new courses of studies and that there is constant-and incessant increase in the demand from more and more eligible candidates to pursue avenues of higher

learning and expertise is a question which, in the nature of things, is or, may be required to be addressed to the Executive of the State and not to the Courts and the Courts are not fit nor properly, equipped instrumentalities to answer such question on the basis of many imponderables and their subjective satisfaction. This is a question of major policy decision to be, taken by the Executive of the State, on the basis of its need and resources available on hand and is not and cannot be a justiciable issue before a Court of Law. While reviewing the action of the Government of Andhra Pradesh for sending a team consisting of Minister of Cooperation, the office bearers and the officers of the Co-operative Institutions and Cooperation Department to certain foreign countries on a study tour at an interlocutory stage this Court speaking through S. R. Nayak, J. in the case of B. Rajaram Mohan Rai v. Government of Andhra Pradesh, 1994 (2) APLJ 75 (SN) observed thus:

"Article 226 of the Constitution of India is not an "Akshaya Patra" to feed and satisfy all sorts and kinds of litigants. It has certain inbuilt, nay, self-imposed and well thought limitations and constraints. Judicial review does not, indeed cannot, provide remedy for every grievance. Article 226 power cannot be employed to cure and remedy all sorts of evils in the public administration. Maladministration not necessarily means illegal administration. It is true that Article 226 power-tentacles are quite long as well as strong enough to pierce through the body of public administration and if they find errantelement in it, they have the power to discipline it to respect the Rule of Law and coerce it to pay for its errant-administrative behaviour. But, this power is available to High Court under Article 226 only when an administrative action is tainted with unconstitutionally, or illegality, or irrationality, or procedural impropriety, not otherwise. This is the "major premise" of judicial review. It has a "minor premise" too-according to which the Constitutional Courts while exercising power of Judicial Review under Article 226 shall decline to review "Acts of State" and normally decline to review pure political questions or major State policies evolved/framed within the constitutionally permissible limits. Re-viewability and rationality will go together. If an administrative action is reviewable, it automatically follows that that action can be tested by the Court with and in the premise of rationality. On the other hand, if the action is not reviewable, there is no scope for testing the action by rational standards."

These observations made by the Court in the aforementioned decision are apposite to the context in which the learned senior counsel has raised the larger issue. I, therefore, decline to consider the said point raised by the learned, senior counsel on merit, it being a non-justiciable issue and an issue which essentially, necessarily and legitimately should fall within, if I were to borrow the expression of the Supreme Court, the "political thicket".

In the result and for the foregoing reasons the writ petition fails and is accordingly dismissed. In the facts and circumstances of the case, the parties are directed to bear their own costs.

15. Petition dismissed.