
(2008) 04 KAR CK 0013
In the Karnataka High Court
Case No : Writ Petition No. 25708 of 2005

T.T.L. Trusts, T.T.L. Collage of Business Management (Post Graduate Course-MBA) APPELLANT

Vs

University of Mysore and State of Karnataka RESPONDENT

Date of Decision : 11-04-2008

Acts Referred:

Karnataka State Universities Act, 2000 — Section 59, 59 (13)

Citation : (2009) 2 KarLJ 251 : (2008) 4 KCCR 2351

Hon'ble Judges : B.V. Nagarathna, J

Bench : Single Bench

Advocate : Madhusudan R. Naik, for the Appellant; T.P. Rajendrakumar Sungay, for R-1 and B. Manohar, AGA for R-2, for the Respondent

Final Decision : Allowed

Judgement

B.V. Nagarathna, J.—In this writ petition, the petitioner has challenged the order dated 25.11.2005 made by respondent No. 1-University (Annexure-N) and has sought a direction to the 1st respondent to issue formal orders in terms of the directions of the State Government as contained in its communication dated 28.10.2005 (Annexure-M) in accordance with Sub-sections 12 and 13 of Section 59 of the Karnataka State Universities Act, 2000 and also to approve the admissions of all the students admitted for the academic year 2005-06 and consequently, permit them to appear in the examination conducted by the University.

2. The relevant facts are that the petitioner is a postgraduate institution imparting education in Business Management leading to MBA degree. The said institution is said to have been established after obtaining necessary sanction and permission from All India Council for Technical Education (AICTE), State Government and 1st respondent-University. According to the petitioner, for the academic year 2003-04, AICTE had granted approval with intake capacity of 26 students and for the academic year 2004-05, the authorities had, in the first

instance, sanctioned intake of 40 seats but on the representation made by the petitioner, AICTE had revised the intake to 60 seats per year as per Annexure-B. It appears that the State Government had also revised the intake capacity of the students to 60 in line with the one prescribed by the AICTE. For the academic year 2005-06, noticing certain shortcomings, AICTE had reduced the intake from 60 to 30 with a direction that the institutions could appeal against the same or make good the deficiencies. Subsequently, by virtue of Annexure-E dated 12.7.2005, AICTE restored the intake to 60. However, according to the petitioner, the University restricted the intake of the petitioner-college to 40 by letter dated 20.8.2005 produced as Annexure-F. Since the calendar of events for admission to postgraduate courses were notified and 31.8.2005 was the last date for admission, the petitioner admitted 60 students as per Annexure-K and a representation dated 25.8.2005 (Annexure-G) was made to the University to restore the intake to 60. However, the University, by communication dated 21.9.2005 produced as Annexure-H, insisted that the intake be restricted to 40 only. Being aggrieved by the arbitrary fixation of intake made by the University, the petitioner had made a representation to the State Government to direct the University to restore its intake to 60 in terms of Section 59 of the Karnataka Universities Act, 2000, by letter dated 5.10.2005 at Annexure-L. In response to the said letter, the State Government, by letter dated 28.10.2005 (Annexure-M) had directed the University to fix the intake at 60 in terms of Section 59 of the Karnataka Universities Act, 2000. According to the petitioner, the University placed the direction of the State Government before its Syndicate and on consideration of the same, the Syndicate rejected the fixation of intake at 60 and insisted that the intake should be restricted to 40 as per the extract of the proceedings of the meeting of the Syndicate held on 20.10.2005 annexed to Annexure-N and accordingly, 1st respondent wrote a letter dated 25.11.2005 to the petitioner (Annexure-N) stating that the intake capacity of the petitioner-college for the academic year 2005-06 was determined at 40. Aggrieved by the said reduction by granting affiliation to only 40 students, the present writ petition has been filed by the petitioner seeking the reliefs as stated above.

3. I have heard the learned senior counsel for the petitioner and the learned Counsel for the respondents.

4. At the outset, it is necessary to reiterate the position of law with regard to the fixation of intake for technical courses. The All India Council for Technical Education (Norms and Guidelines for Fees and Guidelines for Admissions in Professional Colleges) Regulations, 1994 ("Regulations" for short) states that in exercise of the power conferred by Clause (j) and Clause (o) of Section 10 read with Section 23 of the All India Council for Technical Education Act, 1987 (AICTE Act), the number of seats available for admission in a professional college is to be fixed by AICTE and no professional college shall be permitted to change the intake capacity except with the approval granted by the Council. Further, under the Grant of Approval for starting new technical institutions, introduction of courses or programmes and approval of intake capacity of seats for courses or

programmes Regulations, 1994, after the commencement of the said regulations, no approved intake capacity of seats can be increased or varied by any technical institution except with the approval of the AICTE (vide Regulation 4[d]). Further, under Clause 13 of Section 59 of the Karnataka State Universities Act, 2000, the intake for Business Management course is to be fixed by AICTE and. under Clause 18, the intake in respect of each of the courses of study has to be determined on an yearly basis by the University well before the commencement of each academic year in the order granting affiliation or continuation of affiliation, provided, in the cases of professional courses such as management and other postgraduate programmes, the intake has to be fixed by the State Government. The State Government normally adopts the intake fixed by the AICTE which is an all India apex body for technical education. Therefore, the University has no competency in the matter of fixation of intake for technical courses.

5. It is the submission of the learned senior counsel for the petitioner that the State Government, in exercise of its powers in fixing the intake in terms of proviso to Clause 18 of Section 59, invariably adopts fixation of intake made by the AICTE which is an All-India body. It is hence submitted that in the instant case, the University, having no role in the determination of intake of the petitioner-college, was not right in issuing Annexure-N on the basis of the Syndicate resolution and hence, has sought for setting aside of Annexure-N.

6. A perusal of the resolution passed by the 1st respondent-University (Annexure-N) reveals that the members of the Syndicate had expressed their anguish regarding the language and the comments made against the University and its officers by the petitioner-college while explaining its stand in the fixation of intake at Annexure-L, letter dated 5.10.2005. It is on record that Prof. B.R. Ananthan, Dean, Faculty of Commerce and Management was -appointed as Chairman of the Local Inquiry Committee which had visited the petitioner college on 2.3.2005 and had observed certain deficiencies and had submitted a report that the intake ought to be reduced. The Syndicate had also noted that under Clause 18 of Section 59 of the Karnataka State University Act 2000, the University had the power in fixation of the intake and hence while reducing the intake of the petitioner-college from 60 to 40 for the academic year 2005-06, it had also passed certain directions for transfer of candidates admitted over and above 40 determined by the University. In view of the above contents of the resolution of the Syndicate annexed to Annexure-N, learned senior counsel for the petitioner drew my attention to Annexure-L which is a representation dated 5.10.2005 made by the petitioner-college to the State Government in which, it has been stated that Prof. B.R. Ananthan, the then Head of the Department of Management Studies, University of Mysore was requested by the petitioner college to guide 41 second year MBA students and he had agreed to guide the students on the condition of payment of Rs. 1,64,000/- at the rate of Rs. 4,000/- per student. It is further stated that the said amount was also paid by the petitioner but having received the said amount, it is contended by the learned

senior counsel, Prof. B.R. Ananthan had failed to discharge his duties for the petitioner college which aspect was brought to the notice of the Hon"ble Lokayukta by the college who had got the matter investigated and had recommended punitive action being Initiated against Prof. B.R. Ananthan. Coincidentally, the Chairman of the local inquiry committee which inspected the college was the said Prof. B.R. Ananthan who worked as Dean, Faculty of Commerce and Management. According to the learned senior counsel, Prof. B.R. Ananthan ought not to have participated in the deliberations of the Syndicate in respect of the agenda pertaining to the petitioner-college and further, ought not to have even been the chairman of the local inquiry committee having agreed to guide 41 second year MBA students of the petitioner college. The sum and substance of the contention of the learned senior counsel is that Annexure-N has been issued by the 1st respondent-University based on the resolution passed by the Syndicate which is highly motivated.

7. Learned Counsel for the 1st respondent -University, however, counters that Prof. B.R. Ananthan, by virtue of his being the Dean, Faculty of Commerce and Management, was the chairman of the local inquiry committee for the grant of continuation of affiliation to the petitioner-college and he being a member of the Syndicate, had participated In the deliberations pertaining to the petitioner-college by virtue of his office and hence, the same cannot be found fault with.

8. It is noticed that the petitioner has impleaded the other members of the Syndicate as respondents, on the direction of this Court to furnish the names of the members of Syndicate who have passed the impugned resolution. The other members of the Syndicate have been served and are unrepresented.

9. The occasion to implead the other members of the Syndicate would not have been necessary had the 1st respondent-University been informed about the legal position vis-?-vis fixation of intake in respect of technical institutions and acted accordingly. The view of the Syndicate that the power of the University to fix the intake u/s 59 has been embarked is incorrect. Whether such a view has been taken by the Syndicate in order to give legality for reduction of the intake from 60 to 40 students in the background of what has been noted in the enclosure to Annexure-N is not apparent. However, the fact remains that Prof. B.R. Ananthan, Dean, Faculty of Commerce and Management ought not to have accepted the chairmanship of the local enquiry committee and further, ought not to have participated in the deliberations of the Syndicate vis-?-vis the reduction of intake of the petitioner-college as he had accepted an assignment to teach the students of the said college.

10. At this stage, I wish to observe that persons who are highly qualified and holding important posts in the academic field ought to maintain high standards not only in their field of specialization but also in other areas concerning upholding the standard of excellence of Universities and educational institutions and specifically, while dealing with matters of affiliation and fixation of intake. Although all the members of the Syndicate have been arrayed as respondents, I

do not wish to say anything more except reiterating that the quality and excellence of Universities and educational institutions mainly rests on the persons who man the same and not on the facilities, amenities and infrastructure that are provided.

11. Learned Counsel for the 1st respondent has been fair in his submission by stating that under the provisions of the AICTE Act and the Karnataka State Universities Act, 2000, the university has no role in the determination and fixation of intake for the colleges and that, it is AICTE alone that has the power to fix the intake. Learned Government Advocate also endorses the above submission.

12. In that view of the matter, in my opinion, the 1st respondent-University ought to have followed the direction of the State Government vide Annexure-M and ought not to have issued Annexure-N dated 25.11.2005. Hence, Annexure-N is quashed and the intake of the petitioner is as determined by AICTE for the academic year 2005-06 as per Annexure-E dated 12.7.2005.

13. It is noticed that by way of an interim order dated 29.11.2005 and 2.12.2005, the excess students were permitted to prosecute their MBA course and that their course has been completed and by further interim orders, their results have also been announced subject to the result of the writ petition. In view of the writ petition being allowed, in my opinion, the so called excess admission made for the academic year 2005-06 ought to be regularized by the 1st respondent University and the University is directed to issue degree certificates to the students of the petitioner-college admitted for MBA course, if they are otherwise eligible to receive the same.

For the aforesaid reasons, the writ petition is allowed but, without any order as to costs.