

(1990) 04 KAR CK 0020
In the Karnataka High Court
Case No : Writ Petition No. 14439 of 1989

T.V. Chacko

APPELLANT

Vs

Controller of Examinations, Bangalore University, Bangalore
and Another

RESPONDENT

Date of Decision : 16-04-1990

Acts Referred:

Bangalore University Regulations — Regulation 8(B)(I)

Citation : (1991) 4 KarLJ 317

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

Judgement

1. The petitioner has sought for a mandamus to the respondents directing them to permit him to appear for the IVth semester examination in the Master of Computer Application. On 24-8-1989 the petitioner was permitted to take the examination in IVth semester course by an interim order.

2. The material facts are that the petitioner, who is a student of the B.M.S. College of Engineering in Post-Graduate course in the Master of Computer Application, did not pass one of the subjects in the 1st semester course. However, he contrived to appear for the IVth semester course, admittedly in contravention of the University Regulations. The course of study consists of six semesters and each semester spans 6 months. According to Regulation VIII(b)(i) of the Regulations, a candidate should have completed the 1st semester in all respects in order to be eligible to appear for the IVth semester. Though the petitioner was not eligible, yet he was permitted to take the IVth semester course. On coming to know of the violation of the Regulation, the first respondent herein, who is no other than the Controller of Examinations, Bangalore University, by letter dated 9-8-1989 notified the 2nd respondent College that the petitioner is not eligible to register for the IVth semester and he was ineligible to take the IVth semester examination. The subject which the petitioner ought to have cleared in the 1st semester is Digital Computer. Care had been taken by the first respondent to notify the 2nd respondent as aforementioned well before the issue of Hall Tickets by the 2nd respondent

College pointing out the irregularity in the registration of the petitioner and forbidding the College from permitting the petitioner to take IVth semester examination.

3. The petitioner approached this Court and an interim order was passed on 24-8-1989 in the following terms:

"Issue rule and interim order directing the respondents to permit the petitioner to take his IV semester examination in M.C.A. Course scheduled to be held from the 25th of August, 1989. However, the result of the examination to be so taken by the petitioner shall be subject to the result of this writ petition".

4. The petitioner relies on a subsequent development during the pendency of the writ petition, which is, that he has passed in the examination on the subject of Digital Computer of the 1st semester and subsequent acquisition of the eligibility is what the petitioner is seeking to rely upon after having taken the IVth semester examination.

5. The point for consideration is, whether the petitioner is entitled to the relief sought for in this writ petition by virtue of the fact that he has passed in the only subject that was remaining over in the 1st semester after he had taken IVth semester examination?

6. The answer is to be found in the Regulations of the Bangalore University governing six semesters Masters Degree course in Computer Application. According to Regulation VIII(b), the eligibility to go to IVth semester from IIIrd semester requires that the candidate should have completed the 1st semester in all respects and it further provides that he can carry over a maximum of 4 uncleared papers of IInd and IIIrd semesters (both inclusive). It is not disputed that these Regulations have the force of law. It is also not disputed that these Regulations are relevant and applicable to the facts of the case. If that be so, what arises for consideration is, whether the subsequent acquisition of eligibility would lend legitimacy to the petitioner taking IVth semester examination under the cover of the Court's interim order despite the aforesaid Regulation?

7. The interesting aspect of the case is that the B.M.S. College of Engineering was shaken from its slumber and made to open its eyes by the Controller of Examinations of Bangalore University by issuing the letter dated 9-8-1989 pointing out that the petitioner was neither qualified nor eligible to take IVth semester course since he did not satisfy the requirements of Regulation VIII(b) and that he should be discharged from the College. However, harsh the direction may sound, what is most surprising is how the 2nd respondent-permitted the petitioner to take IVth semester course contrary to the aforesaid Regulation. It appears to me that the Regulation has been sacrificed for the sake of expediency or on some other consideration and it certainly cannot be said that the Principal of B.M.S. College of Engineering could feign ignorance of University Regulations. At any rate, no explanation is offered by the 2nd respondent in this regard as to how and why the petitioner was permitted to take the IVth semester course.

8. Strangely enough, a contention is advanced on behalf of the petitioner that he was not aware of the Regulations and therefore he should not lose the benefit of the result of IVth semester course. The contention that the petitioner was not notified before the order was communicated by the first respondent to the 2nd respondent by letter dated 9-8-1989 cannot be accepted because there is no statutory provision which compels the issue of any such notice by the first respondent to the petitioner. In any event, what is relevant for the purpose of the case is, whether the petitioner was eligible and qualified for taking IVth semester course without having completed all the subjects in the 1st semester. The answer is plainly in the negative. I do not find any justification whatsoever to interfere with the jurisdictional control of the first respondent over the 2nd respondent-College and action taken in respect of infraction of University Regulations, which are clear and binding on the 2nd respondent. The consequences of such a violation be falling the petitioner cannot be warded off by any extraneous consideration. I do not find any lawful excuse which could enable this Court to grant the relief sought by the petitioner.

9. Hence, I pass the following:

ORDER

The writ petition fails and is therefore dismissed.