

(1997) 03 KAR CK 0008

In the Karnataka High Court

Case No : Writ Petition No's. 30853 of 1996; 3492, 2876, 3225, 3291, 4130, 5927 and 6193 of 1997

Uma Pragathi Vidya Samsthe (Registered), Kyathsandra,
Tumkur District and Another

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 17-03-1997

Acts Referred:

Karnataka Secondary Education Examination Board Act, 1966 — Section 17 (3)

Citation : (1998) 6 KarLJ 537

Hon'ble Judges : Tirath S. Thakur, J

Bench : Single Bench

Advocate : Sri D.S. Ramachandra Reddy, Sri Mohammed Farooq, Sri M.V. Hiremath, Sri H.V. Nagaraj Rao and M/s. Vagdevi Associates, for the Appellant; Sri N.B. Vishwanath, Government Pleader, for the Respondent

Judgement

1. The crucial question that falls for consideration in these writ petitions is as to whether the petitioner-institutions have a legally enforceable right to insist that they should be constituted as examination centres for the examinations conducted by the respondent-Board. The question however is no longer res integra having been answered against the petitioners by three different Benches of this Court in identical petitions filed by some of such institutions. In *Shri Basaveshwara Pre-University College v Director of Pre-University Board, Bangalore and Others*, Saldanha, J., held that the decision to establish the examination centre is an administrative decision dependant on a variety of factors and that no institution can claim a vested right to have such a centre established or insist that it should be treated as an examination centre. It was observed that if the decision taken is incorrect, unfair or perverse, it may in restricted instances be capable of judicial review limited only to the extent or the manner in which the power has been exercised. The discretion of choosing the centres, it was observed, lay with the authorities which is not open to judicial interference unless it is shown to have gone absolutely wrong.

2. In *Rural Teachers' Training Institute and Another v State of Karnataka and Another*, Bharuka, J., expressed a similar opinion and held that the change of centre from one place to another was an administrative matter which could not be interfered with by this Court under its writ jurisdiction particularly when such changes are made to maintain purity in examinations.

3. To the same effect is the view taken by brother Sadashiva, J., in *Sree Narasimhaswamy Education Society v State of Karnataka and Others*, where a similar grievance was rejected on the ground that in the absence of a legal right in the petitioner to insist that its school should be declared as an examination centre the change or alteration brought about depending upon the exigencies of the situation cannot be called in question.

4. These judgments are binding upon me and if I may say so with respect, state the legal position correctly. Even according to the view expressed by brother Saldanha, J., perversity, or palpable unfairness in the decision are the only situations in which this Court may be inclined to interfere with any such decision. That however is not the position in the present batch of cases where the decision to cancel the examination centres has been taken by the respondent-Board, on the basis of the reports of the Review Meetings held by the Minister for Education and the District Officers, according to which malpractices conducted in the course of S.S.L.C. and P.U.C. examinations could be effectively prevented only by cancelling the existing centres established in the unaided Pre-University and First Grade Colleges. It is not therefore as though the decision to cancel the centres is unrelated to factors that are relevant for maintaining purity of the examinations and prevention of malpractice in the same. A decision which is aimed at maintaining the purity of the system can hardly be said to be perverse or irrational to warrant interference. It is true that the change brought about may also not be a lasting answer to the ever increasing problem of commission of malpractice in examinations, yet the authorities are entitled to give a trial to the new system and make further improvements if necessary on the basis of their experience. Suffice it to say that it is difficult to term the decision taken by the respondents to be so patently irrational as to warrant interference with the same.

5. Counsel appearing for the petitioners however urged that the decision taken was in violation of the principles of natural justice inasmuch as no opportunity of being heard was afforded to the institutions or the candidates to show cause as to why the centres should not be shifted to some other institution. I see no merit in this submission. Grant of a hearing before passing an order is essential only in cases where the person claiming such a hearing is likely to suffer any adverse civil consequence. No such adverse consequence is however suffered by the institutions from where the centres are shifted. The fact that the students of the petitioner-institutions would be required to appear from another centre does not in my opinion cause any prejudice to the institution as such, so as to give to them either a cause for grievance or for a complaint based on the alleged violation of the principles of natural justice. This is true even as regards the

students, who also have no vested right to insist that they should appear in the examination only from a given institution or centre. So long as the students have a fair opportunity to appear from another centre, there is no question of affording them any opportunity of being heard before directing a change in the examination centre.

6. It was lastly contended that the power to establish a centre was vested only with the Board in terms of the regulations framed under the Karnataka Pre-University Examination Board Act, and that the order changing the centres issued by the Chairman of the Board was without competence. It is true that in terms of regulations of the Mysore Secondary Education Examination Board Act, 1966 the power to establish the examination centres, which also implies the power to alter such centres, vests in the Board, but it is equally true that in terms of Section 17(3) of the Act, the Chairman of the Board is competent to exercise all such powers as are vested in the Board in cases of emergency. The S.S.L.C. and Pre-University Examinations for which the centres have been changed, are starting shortly. An order shifting the existing centres could therefore be legitimately passed by the Chairman in exercise of the emergency powers keeping in view of the fact that the time available was much too short to make it possible for the Board to examine the matter itself. The orders passed by the Chairman therefore do not suffer from the vice of incompetence.

7. I may at this stage deal with a submission made by Mr. H.V. Nagaraja Rao, Counsel appearing for some of the petitioners. It was urged that the institutions to which the examination centres have now been transferred did not have the requisite infrastructural facilities such as desks, tables, chairs and rooms etc., sufficient for the number of candidates allotted to such centres. It was contended that on account of the lack of such basic facilities, students allotted to these centres would be at a disadvantage in that they shall have to squat on the floor to write the examination thereby prejudicially affecting their performance. The Director of Pre-University Education has however filed three separate affidavits in W.P. Nos. 4130 of 1997; 6193 of 1997 and 5927 of 1997 in which the allegations made in the writ petition about the non-availability of adequate facilities in the new centres, have been denied. The affidavit further states that examination centres have been chosen with sufficient care and caution and after satisfaction that the college is well suited to be an examination centre. It is stated that if any inadequacy is noticed, the Directorate will make necessary arrangements for the removal thereof and that sufficient funds have been provided by the Government for that purpose. The affidavits also undertake that the Pre-University Education Directorate shall provide all basic facilities such as desk, tables, chairs etc., in the examination centres now chosen to ensure that the students do not suffer because of lack of such basic facilities. In the light of this undertaking I have no reason to hold that the students allotted to the newly constituted examination centres shall suffer any disability or inconvenience on account of the lack of the infrastructural facilities. The assurance given in the affidavit should in my opinion sufficiently allay the apprehension expressed by the petitioners that because of

the lack of facilities the students may have to write the examinations while squatting on the floor.

8. In the result I see no reason to interfere with the change in the examination centres and dispose of these petitions with a direction that the respondents shall take all necessary steps to ensure that the students allotted to the newly constituted centres are provided with all necessary facilities like desks, tables, chairs etc., to enable them to take the examination without being put to any inconvenience on account of lack of such facilities.

9. In the circumstances however the parties are left to bear their own costs.