

(2005) 05 KAR CK 0023
In the Karnataka High Court
Case No : Writ Appeal No. 4970 of 2004

University of Agricultural Sciences

APPELLANT

Vs

T.D. Yogitha

RESPONDENT

Date of Decision : 31-05-2005

Acts Referred:

Citation : (2005) ILR (Kar) 2750 : (2005) 6 KarLJ 241 : (2005) 3 KCCR 185 SN

Hon'ble Judges : P. Vishwanatha Shetty, J;C.R. Kumara Swamy, J

Bench : Division Bench

Advocate : H.N. Shashidara and H.K. Vasudevareddy, for the Appellant; S.P. Shankar and Neelakantappa K. Pujar, for the Respondent

Final Decision : Dismissed

Judgement

Vishwanatha Shetty, J.—The appellant in this appeal is University of Agricultural Sciences, Bangalore (hereinafter referred to as "University").

2. In this appeal, the appellant has called in question the correctness of the order dated 2nd November 2004, made in Writ Petition No. 54757/2003 by the learned single Judge.

3. In the impugned order, the learned single Judge quashed the endorsement dated 30th October 2003, issued by the University, a copy of which was produced as Annexure-G to the writ petition, informing the respondent that she is not entitled for issue of marks card and degree certificate and decided to uphold the notification dated 12th April 2001 issued by the University cancelling the admission of the respondent and further directed the University to issue degree certificate of B.Sc. (Agriculture) to the respondent within fifteen days from the date of receipt of a copy of the order.

4. Sri H.N. Shashidar, learned counsel appearing for Sri H.K. Vasudeva Reddy, for the appellant challenging the correctness of the impugned order passed by the learned single Judge strongly submitted that since the respondent was not entitled to be admitted in respect of the seats earmarked for the children of

agriculturists and the respondent secured admission for study of B.Sc. (Agriculture) course by mis-representation and fraud, the learned single Judge was not justified in passing the impugned order. In support of this submission, he strongly relied upon the decision of the Hon"ble Supreme Court in the case of Guru Nanak Dev University Vs. Parminder Kr. Bansal and another, and in the case of Gurdeep Singh Vs. State of Jammu and Kashmir and others, and decision of this Court in the case of Soma Vs. State of Karnataka, .

5. However, Sri S.R Shankar, learned Senior counsel appearing for the respondent supported the order impugned passed by the learned single Judge. He pointed out that since the learned single Judge on consideration of the circumstances that the respondent was admitted to B.Sc. (Agriculture) course in the year 1995-96 and she was a minor at the time of her admission; and her father had filed the certificate claiming to be an agriculturist; and the University had initiated action against the respondent after completion of the course, there is absolutely no justification for this Court to interfere against the impugned order passed by the learned single Judge.

6. We have elaborately heard the learned counsel appearing for the parties and we have gone through the order impugned passed by the learned single Judge. The learned single Judge while recording a finding that the father of the respondent being a Government servant has suppressed the material facts and on that basis has secured admission to the respondent for study of B.Sc (Agriculture) course in the University during the academic year 1995-96, has quashed the impugned endorsement issued by the University and directed the University to issue degree certificate of B.Sc (Agriculture) course to the respondent on the ground that the respondent was admitted for study of B.Sc (Agriculture) course for the academic year 1995-96 and at the time of her admission she was a minor and that it is her father who had filed false certificates claiming to be an agriculturist; and the University had initiated action against the respondent after completion of the course. It is useful to refer to the observations made by the learned single Judge at Para-25 of the order which reads as hereunder:

"25. In this case petitioner was admitted to the B.Sc. (Agril.) course in the year 1995-96. She was a minor at the time of her admission and her father had filed a certificate claiming to be an Agriculturist. The University has initiated action against the petitioner after completion of the course. It is not in dispute that she completed her degree course and it is not the case of the University that she did not possess minimum eligibility to be admitted to the said Course. Huge amount was spent on her for completion of the course. It is true that a seat was deprived to an Agriculturist for joining the Course by the admission of the petitioner. If any action is taken against the petitioner at this stage, it may lead to depriving the service of a Graduate in Agricultural Sciences to the Society on whom public money has already been spent. The recent judgments of the Apex Court in Milind's case (supra) and Vishwanatha Pillai's case (supra) are directly

applicable to the facts of this case. Having regard to the facts and circumstances of the case, I am of the view that the admission of the petitioner should be approved subject to the condition that she should not claim to be an "Agriculturist" in future either in obtaining service benefits or any other benefits."

No-doubt as rightly pointed out by the learned single Judge the father of the respondent suppressing the fact that he was in the Government service ever since the year 1977 and was working as Junior Engineer, P.W.D. at Honalli and also suppressing the fact that his wife one Smt. Jayamma was working as a School Teacher, Lower Primary Boys School, Ayanur village had secured a seat to the respondent for study of B.Sc (Agriculture) course in the appellant-University for the academic year 1995-96. From, the observation made by the learned single Judge at Para-15 of the judgment, it is clear that but for the suppression of facts by the father of the respondent with regard to his status as a Government servant and also the employment of the mother of the respondent as a teacher, the respondent, would not have been entitled for additional 10 marks in accordance with Sub-section (2) of Section 5 of the Act and She would not have been admitted for study of B.Sc (Agriculture) course in the University. However, the question that remains to be considered is whether for the suppression of material facts committed by the father of the respondent, when the respondent was a minor and when there is nothing to show that the respondent herself had the knowledge of suppression of material facts by her father and when the University had not taken action to cancel the admission within a reasonable time from the date of her admission, the cancellation of her admission made after completion of her course can be said to be fair and reasonable?

7. While we entirely agree with the submission of the learned counsel for the University that normally if a student secures admission for study in a professional college by suppressing material facts or by fraud, such student who deprives the claim of a genuine student for admission for study of professional course is not entitled to continue his/her studies in the professional course for which he/she has been admitted, however, this principle will have to be applied depending upon the facts and circumstances of each case and keeping in mind that the educational institutions or Universities are dealing with the career of young students where they do not have a say at the stage of admission and also having regard to the facts as to whether any inaction on the part of the authorities in not taking steps to cancel the admission within a reasonable time, would seriously jeopardise the career of the young students. While the purpose of cancellation of admission of student is to convey in unequal terms the students who secure admission by mis-representation and fraud, that they will not have the advantage of their misconduct, but the facts and circumstances of the case shows that the cancellation of the admission of the student long after lapse of time or completion of course on account of inaction on the part of the authorities in not taking the action within a reasonable time, would do greater harm to a young student who was not a party to such fraud or mis-representation, in our

considered view, the Courts in those circumstances, should use their judicial discretion to strike a balance between the maintenance of discipline in the matter of admission to educational institution and the individual harm to the concerned student. While every Rule and Regulation is required to be enforced as it is in public interest, however, if strict adherence to such Rule/Regulation is likely to result in serious injury in a given case, under those circumstances, if the Courts have discretion to play in between the joints to minimise the injustice that may be caused to a student on account of such strict adherence of Rule/Regulation, in our view, the Courts on consideration of totality of circumstances of the case should do so. In the instant case, it is not in dispute that the respondent was admitted for study of B.Sc (Agriculture) course during the academic year 1995-96 and she was a minor at the time of her admission and it is her father who had filed false certificate claiming to be an agriculturist. The University had initiated action against the respondent after completion of her course. It is not a case where the respondent did not possess minimum eligibility to be admitted to the Course. It is a case where the respondent on the basis of marks secured by her could not have got a seat for study of B.Sc (Agriculture) course in the University but for the fact that a claim was made on her behalf that her parents were agriculturists. The respondent is a young lady student. She belongs to reserved class. Her admission for the first time was cancelled on 12th April 2001, that is, after lapse of six years from date of her admission. On an earlier occasion, this Court had quashed the endorsement dated 12th April 2001 and remitted the matter for fresh consideration to the University. Thereafter, the University again passed the impugned endorsement dated 30th October 2003. Therefore, at this length of time, we are of the view that if the respondent is deprived of the benefit of her study of B.Sc (Agriculture) course, it would seriously affect her future career. As noticed by us earlier, she was a minor at the time of her admission. There is no material on record to show that she was either a party or had the knowledge of the false declaration given by her father. Under these circumstances, keeping all these matters into consideration, if the learned single Judge has taken the view that the admission of the respondent for study of B.Sc (Agriculture) course should be regularised and she should be issued degree certificate, we do not find any justification to upset the said decision of the learned single Judge in this appeal. We are of the view that while the University cannot be seriously found fault with for the delay in taking action and sending a message to students who secure an admission by giving false declaration that the University would not approve such admissions, however, the said inordinate delay in taking action cannot be totally ignored while considering the question whether the respondent should be deprived of the benefit of education after ten years.

8. Therefore, in the light of what is stated above, we are of the view that this appeal is liable to be rejected. Accordingly, it is rejected.

9. Since the order passed by the learned single Judge was stayed by the Division Bench of this Court, the University is directed to comply with the direction given

by the learned single Judge within ten days from the date of receipt of a copy of this order.