

(2014) 11 KAR CK 0153

In the Karnataka High Court

Case No : Writ Petition Nos. 35623-35625/2014 (EDN-AD)

Usha M.

APPELLANT

Vs

Karnataka State Nursing Council

RESPONDENT

Date of Decision : 25-11-2014

Acts Referred:

Citation : (2014) 11 KAR CK 0153

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : Ajoy Kumar Patil, Advocate for the Appellant; Shivarudra and S.G. Pandit, Advocates and Pramodini Kishan, HCGP, Advocate for the Respondent

Judgement

A.S. Bopanna, J.—The petitioners are before this Court assailing the communication dated 31.01.2014 impugned at Annexure-A to the petition. The petitioners are also seeking for issue of mandamus to the first respondent to approve the admission of the petitioners No. 1 and 2 to the first year GNM course for the academic year 2013-2014 in the third petitioner-Institute. In that light, the consequential relief of appearing for the examination has also been sought in the petition.

2. The petitioners having completed their Pre-university course were admitted to the first year GNM course in the third petitioner-Institute which is affiliated to the first respondent. On the details being sent by the third petitioner-Institute to the first respondent seeking approval of the admission of the petitioners No. 1 and 2, the impugned communication dated 31.01.2014 is issued. By the said communication, the approval of the admission of petitioners No. 1 and 2 has been declined on the ground that they do not satisfy the eligibility criteria having obtained minimum of 40% marks in the qualifying examinations for the said course.

3. The contention of the learned counsel for the petitioners is that the first petitioner in any event was entitled to the relaxation of 5% as she belong to

schedule caste and the reason as assigned in the impugned communication that such benefit can only be extended for the next academic year as they have received the communication only on 31.10.2013 is not justified.

4. Insofar as the second petitioner, it is contended that including the first language which was studied by the second petitioner, the second petitioner has obtained 49% in the qualifying examination. In that view, it is contended that while considering the minimum education qualification as contained in the circular dated 29.04.2013, the word "aggregate" used therein should be considered as indicating all the subjects studied and not only the three science subjects and the English subject as indicated therein. It is therefore contended that the impugned communication is liable to be quashed and a direction be issued to the respondents to approve the admissions of the petitioners.

5. The learned counsel for the respondents would however seek to sustain the action of the respondents. It is pointed out that the indication of the first petitioner that she belong to schedule caste cannot be accepted at this juncture, since the clarification had been received after the last date for admission. Insofar as the percentage as reckoned in the case of the second petitioner, it is contended that the circular is clear on this aspect and in that light, if the marks as obtained by the second petitioner in three elective subjects of science and English is taken into consideration, the total of marks is 157 which would be 39.25% and as such, the second petitioner would not qualify.

6. Insofar as the first petitioner, the fact that she has secured more than 35% is not in dispute and as a schedule caste candidate she would qualify. The issue therefore is as to whether the reason for rejection on the ground that the clarification has been obtained after 31.10.2013 would be justified. In that regard, as rightly pointed out by the learned counsel for the petitioners, the last date for admission had been extended by the communication and the clarification had been received prior thereto. In that regard, even otherwise I do not choose to advert into the further details, since all that has been indicated by the clarification is the existing position and therefore, if it is true that the first petitioner belongs to schedule caste, such benefit in any event would be available to the first petitioner.

7. Therefore, all that is to be ascertained by the respondents is that the first petitioner belongs to schedule caste and if that be so, she gets the benefit of relaxation and therefore, the admission is in accordance with law. To the said extent, the respondents are directed to verify the documents submitted and if need be, secure one more copy of the caste certificate from the first petitioner and approve her admission. Since, she has taken the examination pursuant to the interim order granted by this Court, the result shall be declared and she be regularized in the course for which she has been admitted.

8. Insofar as the second petitioner, though he has secured more than 40% on inclusion of the marks obtained in "Bangla", the fact that he has secured less

than 40% marks in aggregate of three science subjects and English cannot be in dispute. Though the learned counsel for the petitioners contend that the requirement should be read as all subjects since the word "aggregate" has been employed in the circular, I am of the opinion that the content of the circular does not admit of any ambiguity, so as to call for interpretation of the said word as it is very much clear that the 40% aggregate is that of the three science subjects and English put together and it cannot be understood in any other manner.

9. Therefore, the admission of the second petitioner in any event cannot be approved as he does not satisfy the minimum eligibility criteria. Hence, the request on behalf of the second petitioner fails. In terms of the above, the first respondent shall verify the authenticity of the caste certificate submitted by the first petitioner and approve her admission with all other consequential benefits of regularizing as having been admitted to the course.

In terms of the above, these writ petitions stand disposed of.