

**(2002) 01 KAR CK 0017**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 15382 of 1998**

Usha S. Rao

APPELLANT

Vs

The Common Entrance Test (C.E.T.) Cell, Bangalore and  
Others

RESPONDENT

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**Date of Decision :** 21-01-2002

**Acts Referred:**

Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984 — Section 14  
Karnataka Selection of Candidates for Admission to Engineering, Medical and Dental Courses Rules, 1997 — Rule 18 (12)

**Citation :** (2002) 2 KarLJ 141 : (2002) 2 KCCR 109 SN

**Hon'ble Judges :** R. Gururajan, J

**Bench :** Single Bench

**Advocate :** M.R. Shailendra, for the Appellant; A.N. Venugopal Gowda and H.B. Mahesh, Government Pleader, for the Respondent

**Final Decision :** Dismissed

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## Judgement

R. Gururajan, J.—The petitioner Usha S. Rao in this petition is seeking for a direction directing the respondents to take steps to refund a sum of Rs. 32,500/- paid towards "Admission Fee" with interest. The petitioner also seeks a declaration that Sub-rules (xi) and (xii) of Rule 18 of the Karnataka Selection of Candidates for Admission to Engineering, Medical and Dental Courses Rules, 1997 is unconstitutional.

2. The petitioner's son Sri S. Nagendra appeared for the Common Entrance Test (for short, "CET") conducted by the State Government for admission to professional courses. After two rounds of counselling in Bangalore, the petitioner's son was offered a payment seat for admission to B.E. in Computers at Karnataka Law Society's Gogte Institute of Technology, Udyambag, Belgaum - 590 008. The petitioner paid a sum of Rs. 32,500/- towards fees. The candidate also applied for admission to B.S. in Computer Science at Philips University, United States of America and got admission in the said Institution. In those

circumstances, the petitioner sought for cancellation of the seat. The 2nd respondent issued no objection certificate in terms of Annexure-A. A representation was made by the petitioner seeking for refund in the matter. The respondent 1 has not refunded and hence this petition.

3. Notice was issued. The respondents have entered appearance and have filed a detailed statement of objection. In the objection statement, they contend that in terms of the rules as applicable to the facts of the case, no refund is permissible. They justify their action.

4. Heard the Counsels on either side. Perused the material placed before this Court.

5. The parties admittedly are governed by the rules known as "Karnataka Selection of Candidates for Admission to Engineering, Medical and Dental Courses Rules, 1997. These rules provide for various contingencies in the matter of admission. These rules are framed in terms of the powers conferred u/s 14 of the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984. Rule 18 provides for an admission round and for refund in the matter. The petitioner, as mentioned earlier, is seeking to quash Rule 18(xi) and (xii). They read as under:

"(xi) If a candidate after having received the admission order and before last day of the admission round surrenders or forfeits a seat he shall forfeit 50% of the fees paid at the time of admission.

(xii) A candidate who had received the admission order does not surrender or fails to Report to the college of admission till the last day of the admission round, forfeits the entire amount paid as

fees".

It states that the candidate already selected and received admission order is not eligible to seek allotment of casual vacancy seat. Clause 10 provides that the candidates who have not been selected in the admission round would be eligible to select the casual vacancy in the order of their inter se merits provided that admission to such seat shall not be made after the last date fixed by the Government.

6. The said clauses (xi) and (xii) cannot be said to suffer from arbitrary if one reads the entire Rule 18 in the matter of admission round. There are several contingencies that have been considered in Rule 18. Casual vacancy has been noticed in Rule 18(vii) of the Rules.

"A seat surrendered or forfeited by a candidate who had obtained the admission order after complying with all the formalities shall be treated as "casual vacancy" ".

Selected candidates cannot seek casual vacancy in terms of the rules. The same is included in the light of having uniformity in the matter of admission to

professional colleges. No arbitrariness is pointed out in this regard. In these circumstances, it cannot be said that these rules suffer from arbitrariness in the matter. The challenge to rule is therefore not acceptable.

7. Insofar as refund is concerned, the respondent states that the petitioner's son was granted an admission order on 23-10-1997. He also joined the 2nd respondent-college. An application was made on 31-10-1997, that is long after the last date for admission to CET for Karnataka candidates (Engineering) for 1997.

8. Rule 18(xii) provides for forfeiture in the matter. The said rule reads as under:

"A candidate who had received the admission order does not surrender or fails to report to the college of admission till the last day of the admission round, forfeits the entire amount paid as fees".

9. In the case on hand, since the surrender or forfeiture was not made before the last date of admission round, the petitioner cannot seek refund of the said amount. In the circumstances, the respondents are justified in rejecting the claim of the petitioner. Insofar as the no objection of the college is concerned, that does not really matter with regard to refund. The object of forfeiture is to see that some discipline is maintained with regard to admission procedure. If such prohibition is not introduced then there is every chance of misuse of the admission order. Moreover, if the surrender takes place before the last date, the authority would be in a position to adjust the said seat. It cannot be forgotten that the respondents do incur substantial expenses towards selection process. Taking into consideration all aspects of the matter and in the light of Rule 18(xii), it cannot be said that the petitioner is entitled for refund as sought for by the petitioner.

10. Petition stands rejected.