

Soma Vs. State of Karnataka

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Court : Karnataka

Decided On : Mar-04-1994

Reported in : ILR1994KAR872; 1994(2)KarLJ430

Judge : M. Ramakrishna and ;S. Venkataraman, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P. No. 15830 of 1990

Appellant : Soma

Respondent : State of Karnataka

Advocate for Def. : N. Devdas Government Adv. for R-1 and ;P. Vishwanatha Shetty, Senior Standing Counsel for R-2

Advocate for Pet/Ap. : T.R. Subbana, Senior Counsel and ;H.N. Nagamohandas, Adv.

Judgement :

ORDER

M. Ramakrishna, J

1. The petitioner in this Writ Petition under Articles 226 and 227 of the [Constitution of India](#) has called in question the legality and correctness of the order (Annexure-D) made by the Registrar, respondent-2 herein, in NO.R/SA/2/UG/ADM/88-89

dated 18.7.1990 and sought for quashing the same and for granting consequential reliefs, for the grounds taken in it.

2. This Writ Petition came to be referred to the Division Bench on 26.8.1993 by Shivashankar Bhat, J., as he then was, observing in paragraphs 2 and 3 of his order as follows:-

'During the final year of B.Sc., course in the second respondent-University the alleged fraud was discovered and ultimately, on an enquiry it was found that the petitioner's father's income was more than the income that would make the petitioner ineligible called as belonging to weaker section (agriculturists in the instant case). Even the assessment order made under the provisions of the Karnataka Agricultural Income Tax Act also shows that the income of the petitioner's father was quite large though the learned Counsel for the petitioner like to take advantage of several deductions available under the said Act. The petitioner also relies upon the fact that the property was brought to sale in November, 1989 because his father was heavily indebted. The fact that the petitioner's father was heavily indebted that by itself will not alter the status of the petitioner's father because the status depends upon the limit of income to be called an agriculturist for the purpose of selection. The learned Counsel for the petitioner however relies upon the decision of this Court in W.P.No. 20559/1989 decided on 9th June, 1992 (Miss K.S. Sabha v. University of Agricultural Sciences and Ors.). There are also two other decisions in W.P.Nos. 8235 and 8236 of 1.986 (P. Ramakrishna Reddy and Anr. v. University of Agricultural Sciences) disposed of on 2nd and 5th September, 1986 whereunder the candidates were permitted to complete their education and results were ordered to be announced because the action was taken almost at the end of the final year.

3. When the allegation against a candidate is quite serious and the alleged fraud or cheating can be discovered only after lapse of some time, can it be said that such a candidate is entitled to any equity from the hands of this Court. The real question is whether the equity should be extended to the case of such a candidate who has been guilty of circumventing the provisions prescribed by the State for the benefit of the weaker section of the people. Since such a question repeatedly

comes up before this Court, I deem it necessary to refer this writ petition for consideration by a Division Bench. The writ petition is accordingly referred to the Division Bench.'

3. The facts leading to this Writ Petition briefly stated are as follows:

The petitioner K.R. Soma had applied in the year 1988-89 to the respondent-2 University of Agricultural Sciences for allotment of a seat for B.Sc., (Agr.) course, claiming to be a person eligible for reservation under Group 'C' on the ground that the income of his parents did not exceed Rs. 3,200/- per annum from agricultural resources as he belonged to the family of agriculturists (vokkaliga community). He has produced Income Certificate in Form-2 wherein the petitioner and his father have declared the family income as Rs. 2,000/- per annum and the Tahsildar, Hassan, on enquiry certified thereunder that the income of the petitioner's family from all sources was Rs. 3,200/- per annum. The said Certificate is at Annexure-A. Considering the said Certificate and other requirements for allotment of a seat, the petitioner was allotted a seat for I year B.Sc., (Agr.) in the month of October, 1988. He was also given accommodation in the G.K.V.K. Hostel at the University Campus. The petitioner successfully completed the First Year B.Sc., (Agr) during the academic year 1988-89 and was admitted to the second year course for the academic year 1989-90 when he completed two Trimester examinations and was attending classes for the third Trimester.

4. At that time, on a complaint that the declaration of income by the petitioner in Form-2 was false as his family had more income than what was declared for the purpose of securing a seat in the reservation in Group 'C', respondent-2 issued a show cause notice as per Annexure-B dated 7/8.3.1989 calling upon the petitioner to show cause why action should not be taken to cancel his admission to the College. In response to the said notice, the petitioner sent up a reply as per Annexure-C in which he asserted that the income of his family from agricultural resources did not exceed Rs. 3,000/- per annum and that the allegations made in the complaint referred to in the show cause notice were false.

5. Not being satisfied with the explanation offered by the petitioner to the show cause notice, respondent-2 referred the matter back to the Tahsildar, Alur Taluk by

his letter dated 30/31.3.89 with a request to examine and intimate the actual income of the family of the petitioner for the year 1987-88. Accordingly, the Tahsildar relying on the report of the Deputy Tahsildar, Nadakacheri, K. Hoskote, informed respondent-2 by his letter dated 17.7.1989 that Rs. 3,200/- shown as the income per annum of Sri K.C. Ramegowda, father of the petitioner, in the Income Certificate issued by him earlier was correct. The Tahsildar further stated in the letter that petitioner's father K.C. Ramegowda possessed 30.23 acres of coffee lands and 4.20 acres of wet land.

6. Not being convinced by the reply of the Tahsildar, respondent-2 by his letter dated 2.11.1989 requested the Deputy Commissioner, Hassan District, Hassan, with full facts of the case, to get the matter thoroughly examined and ascertain the actual income of the father of the petitioner for the year 1987-88. The Deputy Commissioner having got the matter enquired into by the Assistant Commissioner, Sakaleshpura Sub-Division came to the conclusion on consideration of the report of the Assistant Commissioner and the assessment orders (Annexure-E to H) made by the Agricultural Income-Tax Officer in respect of the agricultural income of the father of the petitioner that the income of petitioner's father K.C. Ramegowda for the year 1987-88 was Rs. 1,05,005/- per annum. The letter of the Deputy Commissioner is produced at Annexure-R1.

7. Based upon the letter of the Deputy Commissioner, respondent-2 issued a Notification (Annexure-D) dated 18.7.1990 cancelling the admission of the petitioner holding that his family income exceeded Rs. 10,000/- per annum and that therefore he was not eligible for admission to B.Sc., (Agr) under 'C' Group. Being aggrieved by the said Notification, the petitioner filed this Writ Petition challenging its legality and correctness.

8. Sri T.R. Subbanna, learned Senior Counsel appearing for the petitioner, argued that having regard to the income of the parents of the petitioner shown in the Agricultural Income Tax Assessment Orders (Annexures E to H), the income of the petitioner's parents for the year 1987-88 did not exceed Rs. 3,200/- per annum, which is in conformity with the income declared and certified by the Tahsildar in the Income Certificate issued by him at Annexure-A. Indeed, the authorities having

accepted the said Certificate as correct allotted a seat to the petitioner. That being so, respondent-2 was not right in entertaining a baseless complaint, causing it to be enquired into and reaching the conclusion based on the Deputy Commissioner's report that the petitioner produced a false Certificate regarding his parent's income and thereby cancelling his admission, by the Notification, Annexure-D. He contended that the Deputy Commissioner who held the enquiry as regards the actual income at the request of respondent-2 failed to provide the petitioner or his father an opportunity of being heard. Even respondent-2 gave no opportunity to the petitioner to satisfy him of the truth of the declaration of income made in Annexure-A. Therefore, the report of the Deputy Commissioner and the impugned Notification being violative of the principles of natural justice, cancellation of admission of the petitioner by respondent-2 under the Notification, Annexure-D based on, the report of the Deputy Commissioner, cannot be sustained and is liable to be quashed.

9. After hearing the learned Senior Counsel appearing for the petitioner, further hearing was adjourned so as to enable him to file an affidavit with additional grounds. Accordingly, K.C. Ramegowda, father of the petitioner, has filed an affidavit wherein he has given a different version that his son-in-law Shivappa is a small businessman at Hassan, that his two sons viz., K.R. Soma, petitioners herein and K.R. Easha were studying at Hassan residing in his son-in-law's house, that he was cultivating 3 acres of dry land and 2 acres of wet land of his son-in-law situated at Sathigarahalli Koppal, Hassan Taluk, that during 1985 to 1989 he suffered heavy loss from agriculture for want of sufficient rains, which was proved by the Agricultural Income Tax Assessment Orders, that his lands were brought to sale by Planters Co-operative Bank Limited for the amounts he was indebted to it and that therefore he did not mention the extent of lands he held in Form-3 produced before respondent-2 at the time of admission. However, he regrets for the omission.

10. Based on the said affidavit, Sri Subbanna argued that taking into consideration the statements in the affidavit, the declaration made by the petitioner in Form-2 as regards the family income was correct and the action taken by the authorities that there was a false declaration in regard to the income of the parents of the

petitioner cannot be sustained. Sri Subbanna argued on the equity that by virtue of the interim order of stay granted by this Court in July, 1990, the petitioner continued the studies in the College and completed the course of B.Sc. (Agr), though the result of the examinations is yet to be announced. Therefore, he submitted that at this stage the Court might consider the equity arising out of the circumstances which are in favour of the petitioner though some mistake had crept in the declaration made in Form-2 or otherwise the career of the student would collapse as he completed four years stay in the College. The Court might take sympathetic view in granting relief in favour of the petitioner.

11. Opposing the arguments of Sri Subbanna, learned Senior Counsel for the petitioner, Sri P. Vishwanatha Shetty, learned Senior Counsel appearing for the University, argued that at the out-set, taking into consideration the Agricultural Income Tax Assessment Orders, copies of which are produced at Annexure-E to H, and the report of the Deputy Commissioner made after due enquiry, the annual income of the petitioner's father K.C. Ramegowda, for the year 1987-88 which was the relevant, year, from agriculture was Rs. 1,05,005/-. He was the owner of the coffee plantation to the extent of 30 acres 23 guntas and wet land measuring 3 acres 20 guntas situated at Kanigere village, Alur Taluk, Hassan District. Therefore, admittedly, there was the income exceeding the income declared in Form-2 that the income from all sources was Rs. 3,200/- per annum. Therefore, the declaration was false to the knowledge of the declarant made with a view to secure a seat to his son, the petitioner. Even in the reply to the show cause notice, the petitioner suppressed the actual income by saying that the income of his parents did not exceed Rs. 3,200/- per annum, though he admitted that there were agricultural lands standing in the name of his father. The only explanation offered in this behalf in the reply was that as there was heavy loss on account of failure of rains for about 5-6 years and debt owed by the father of the petitioner to the Planter's Co-operative Bank which brought the lands for sale, the income was so much and not more than that The explanation falls through on the face of the report of the Deputy Commissioner and the Agricultural Income Tax Assessment Orders and the petitioner having obtained a seat in the reserved category Group 'C' meant for economically backward communities on false representation, there was no alternative for respondent-2 but to cancel his admission to the College.

Therefore, Annexure-D, notification by which respondent-2 cancelled the admission of the petitioner, in the circumstances, cannot be interfered with.

12. Now let us examine the statutory requirements provided in the Prospectus of the University of Agricultural Sciences, G.K.V.K, Bangalore, for admission to an undergraduate Programme in the University for 1989-90. Dealing with Reservation of Seats, the Prospectus provides that admission to the University is made subject to reservation of seats for (1) Agriculturists or children of Agriculturists as defined in the Act of UAS, Bangalore,.... (3) SC/ST and other Backward Communities (Group A to E) as may be directed by the State Government in this behalf from time to time and..... It further provides that candidates desirous of claiming consideration of their application for reservation under any of the above categories or for any other benefits in the matter of admission should satisfy certain conditions and produce evidence in support of their claim as specified below:

(i) In respect of category under Agriculturist or children of Agriculturist including Agricultural labour, Certificate-II in the format enclosed with the application form issued by Revenue Tahsildar of the area. XX XX

Accordingly, to satisfy the requirement for admission under Group 'C' category, the petitioner produced along with the application form Income Certificate in Form-11 in which he and his father declared that their income was Rs. 2,000/- per annum and based on that declaration and on enquiry the Tahsildar, Hassan Taluk, swore to an affidavit appended to the Form that the income of the petitioner K.R. Soma and his parents from all sources was Rs. 3,200/- per annum.

13. It is not in dispute that the State of Karnataka provided by a statute that the income of the family of a person claiming reservation under Groups A to D and E from all sources must be Rs. 10,000/- and Rs. 8,000/- and below respectively. It is also not in dispute that with a view to obtaining a seat for B.Sc. (Agr). in the University, the petitioner produced along with his application for admission Income Certificate containing his declaration and also Certificate in the form of Affidavit by the Tahsildar, Hassan, that the income of the family of the petitioner from all sources was Rs. 3,200/- per annum. To say so, the petitioner has relied on the Agricultural Income Tax Assessment Orders Annexure E to H) made by the

Additional Agricultural Income Tax Officer, Hassan. According to the order, Annexure-G the total income of the petitioner's father for the year 1987-88 was Rs. 1,05,005-00 and for the year 1988-89 it was Rs. 99,573-94 as per Annexure-H. The total loss suffered by the father of the petitioner, according to Annexure-G and H, was Rs. 25,072-78 and Rs. 54,984-97 respectively. Again the assessments were based on the declaration made by Sri K.C. Ramegowda, father of the petitioner.

14. Section 19 of the Karnataka Agricultural Income Tax Act, 1957 provides for assessment of agricultural income of the assessee based upon the return submitted by him for an order of assessment. Section 18 thereof deals with the return to be furnished by the assessee. Therefore, depending upon the returns presented by the assessee, the Agricultural Income Tax Officer has assessed the income of Sri K.C. Ramegowda for the year 1987-88 at Rs. 1,05,005/- and Rs. 99,573-94 for the year 1988-89. Although certain sum of money was shown as the loss occasioned to the assessee for the reasons stated in the return, and the Income Tax Officer has given deductions thereof while computing the income tax payable by the assessee, it cannot be said that the income of the family of the petitioner for the year 1987-88 was less than Rs. 10,000/- from all sources, having regard to the fact that Sri K.C. Ramegowda has coffee plantation to the extent of 30 acres 23 guntas and 4 acres 20 guntas of wet land. The assessment orders relied upon by the petitioner cannot be taken into consideration as they were made in the absence of account books required to be produced by the assessee in support of the returns filed by him. Be that as it may, in the Income Certificate dated 26.9.1988 of the petitioner produced along with the Memo dated 21.1.1994 by respondent-2 at Annexure-R3, both the petitioner and his father have declared 'Nil' and 'Rs. 2,000/-' as against the columns 'land and buildings' and 'annual income' respectively. In the statement appended to the said Certificate, they have stated '3 acres of dry land and 2 acres of wet land' and 'Rs. 3,000/-' as against the columns 'lands independently owned' and 'annual income' respectively. Therefore, it is clear that they have made a false declaration by suppressing the real fact of their holding the coffee plantation and the wet land to the extent mentioned above. The income certificate issued by the Tahsildar showing the income of the family of the petitioner as Rs. 3,200/- per annum for the year 1987-88 is also false to their

knowledge. The Deputy Commissioner having enquired the matter through the Assistant Commissioner, Sakaleshpur, stated in his letter dated 29.8.1990, that the annual income of the family of the petitioner for the year 1987-88 was Rs. 1,05,005/-. Therefore, by any stretch of imagination, it cannot be said that the petitioner's family had income of Rs. 10,000/- and below from all sources for the year 1987-88. It is a clear case of misrepresentation on which the petitioner was able to secure a seat for B.Sc. (Agr) reserved for economically backward students under Group-C. The reply by the petitioner to the show cause notice is of no assistance to him because mere assertion that the income of the family did not exceed Rs. 2,000/- or Rs. 3,200/- as the case may be, does not take him anywhere in the face of the fact that the family owned coffee plantation and the wet land to the extent mentioned above and therefore, in the circumstances, the common sense should tell the Court that the view expressed by respondent-2 that since the income of the family of the petitioner for the year 1-987-88 exceeded Rs. 10,000/-, he was not eligible for securing a seat under Group 'C', is correct and hence the submission of Sri Vishwanatha Shetty that the petitioner having secured a seat for B.Sc. (Agr) in respondent-2's University or furnishing a false Income Certificate, respondent-2 rightly cancelled his admission, has to be accepted.

15. Now the question to be considered is whether the petitioner was denied opportunity of being heard as, according to him, neither the Deputy Commissioner nor respondent-2 Registrar provided any opportunity to him to explain the circumstances under which he declared the income of his family and therefore the report of the Deputy Commissioner and the Notification (Annexure-D) cancelling his admission made by respondent-2 were violative of the principles of natural justice.

16. In this connection, Sri Subbanna vehemently argued that presuming for the purpose of argument that the declaration of income made by the petitioner and his father in Form-II (Annexure- A) was found false, respondent-2, relying upon the report of the Deputy Commissioner, before cancelling the admission of the petitioner by the Notification (Annexure-D), should have provided, him an opportunity of being heard about the material collected from the Deputy Commissioner. This having not been done, there was violation of principles of

natural justice. In other words, the submission is that before issuing the Notification (Annexure-D) cancelling the admission of the petitioner to the University, the materials collected from the Deputy Commissioner should have been put to him to have his say in the matter and that without doing so, the Notification issued was violative of the principles of natural justice.

17. It is true that the Notification has been issued based on the report of the Deputy Commissioner as indicated in paragraph-2 thereof. But, we must see that that report of the Deputy Commissioner is based upon the enquiry held by the Sub-Divisional Magistrate, Sakaleshpur Sub-Division and the returns of the agricultural income presented by Sri Ramegowda to the Agricultural Income Tax Officer, Hassan. In other words, the Deputy Commissioner has based his report on the report of the Sub-Divisional Magistrate and the order of the Agricultural Income Tax Officer who says that the income of the family of the petitioner for the year 1987-88 was Rs. 1,05,005/. Again this finding of the Agricultural Income Tax Officer was based on the return filed by the assessee Sri Ramegowda, father of the petitioner. Therefore, there was no fresh material or new sources of material relied on by the Deputy Commissioner to base his report. Therefore, question of confronting the material collected from the Deputy Commissioner to the petitioner does not arise. Even if an opportunity was given to him to go through whatever documents were obtained from the Deputy Commissioner, it would not have made any difference at all, inasmuch as, as we have already held, the income of the family of the petitioner was found to be more than Rs. 10,000/- per annum for the year 1987-88.

18. Another aspect of the matter which is significant to be noticed here is that after the complaint was received by respondent-2 that the petitioner on false declaration obtained a seat under Group-'C', the former issued a show cause notice dated 7.3.1989 to the later to show cause why action should not be taken to cancel his admission obtained on false declaration. The petitioner replied to the show cause notice as per Annexure-C to which we have already adverted to. However, we refer to it here once again for the sake of emphasis and say that the petitioner has nowhere denied in it the complaint that his father had income of Rs. 1,20,000/- from agriculture and the statement that the Tahsildar by his letter No.ICC/8/88-

89/2230 dated 21.2.1989 confirmed that the income of Sri Ramegowda, father of K.R. Soma, was Rs. 1,00,000/-. There the petitioner reiterated his assertion that taking into consideration the failure of rains and debt owed by his father to the Planters Co-operative Bank Limited, the income of the family was less than even the declared income of Rs. 3,000. Not being satisfied with the cause shown by the petitioner, respondent-2 got the matter enquired into by the Assistant Commissioner through the Deputy Commissioner and then proceeded to issue the impugned Notification based on the report of the Deputy Commissioner. Earlier, sufficient opportunity was given to the petitioner by respondent-2 of being heard and even if he had given an opportunity to him after he received the report of the Deputy Commissioner and before he issued the Notification, no purpose would have been served in view of the documentary evidence showing the income of Sri Ramegowda more than the prescribed limit of Rs. 10,000/-/- necessary for obtaining a seat under reserved category Group-C. His income even for 1988-89 was shown as Rs. 99,573-94 Ps. in Annexure-H, assessment order. Therefore, in view of our discussion as above, we hold that the submission of Sri Subbanna in this behalf is one without force. Hence we reject it.

19. Now we will consider the equity if .Available to the petitioner on the submission of Sri Subbanna that by virtue of the interim order of stay granted by the learned single Judge, the petitioner was able to complete the four years course in B.Sc. (Agr) and at this stage, if this Court Mis word with the Notification, Annexure-D, by which the admission of the petitioner has been cancelled, his career will be at stake and therefore the Court may take a sympathetic view in favour of the petitioner. In support of his submission, Sri Subbanna placed reliance on the Decisions of the Supreme Court in (1) MANASARAM vs. S.B. PATHAK AND OTHERS : [1984]1SCR139 ; (2) RAJENDRA PRASAD MATHUR vs. KARNATAKA UNIVERSITY AND ANOTHER : [1986]2SCR912 ; and (3) A. SUDHA vs. UNIVERSITY OF MYSORE : [1988]1SCR368 .

20. In Manasaram's case, the Supreme Court was considering the order of eviction of the tenant on the ground of contravention of Clause 22(2) of the Rent Control Order, 1949. Having regard to the facts and circumstances of that case, the Supreme Court held, in the absence of a finding on the relevant question

whether the landlord assured the tenant that the house was being permitted to be occupied in accordance with Sub-clause (2) of Clause 23, the order of eviction vitiated. The facts and circumstances and the question of law involved in Manasaram's case are entirely different from those in the case on hand. Therefore, the Decision in Manasaram's case is of no assistance to the petitioner herein.

21. The Decision in Rajendra Prasad Mathur's case arises out of the Decision of this Court. The Supreme Court was considering the question whether the action taken by the authorities of the University, holding that Higher Secondary Examination passed by Rajendra Prasad Mathur through the Board of Secondary Education, Rajasthan, was not equivalent to the two year Pre-University Examination conducted by the Pre-University Education Board, Bangalore, and that therefore he was ineligible for admission to B.E. Course of the Karnataka University, was justified. On facts, it was discovered that the students from Rajasthan and Udaipur Universities though were ineligible for B.E., degree course in Karnataka had been admitted in certain Engineering Colleges in Karnataka for the sake of capitation. Considering the career of the students having completed the course of 4 years on the strength of the interim orders of the High Court and the Supreme Court and the responsibility for their admission, the Supreme Court held in paragraph-8 as follows:

'..... We do not see why the appellants should suffer for the sins of the managements of these Engineering Colleges. We would therefore notwithstanding the view taken by us in this judgment allow the appellants to continue their studies in the respective Engineering Colleges in which they were granted admission. But we do feel that against the erring Engineering Colleges the Karnataka University should take appropriate action because the managements of these Engineering Colleges have not only admitted students ineligible for admission but thereby deprived an equal number of eligible students from getting admission to Engineering Degree Course....'

The Supreme Court was of the opinion that though the students were ineligible for admission on their passing Higher Secondary Examination and the First Year

B.Sc. of Rajasthan Secondary Education Board and the University of Rajasthan and Udaipur respectively which were found to be not equivalent to the Pre-University Examination of the, Pre-University Education Board, Bangalore, yet were allowed to continue their studies in their respective Colleges on the main ground that they did not know that they were ineligible for admission in Karnataka and the fault lay in the managements of the concerned Engineering Colleges who admitted those candidates for the sake of capitation fee though they knew that they were ineligible. In such circumstances, having regard to the four years course of B.E., they completed in the Colleges, the Supreme Court took a lenient view in favour of the students. That is not the case here. Here we are concerned with the conduct of the student securing a seat by making a false statement or declaration about the income of his parents though he as well as his father knew very well that their income exceeded the income furnished in the Form-11. There is no question of others committing any error in admitting the petitioner to B.Sc. (Agr) course, inasmuch placing reliance on the declaration furnished in Form-11 and the Certificate issued by the Tahsildar, competent authority, stating that the income of the family of the petitioner from all sources was Rs. 3,200/- per annum, respondents-2 admitted the petitioner to the College for B.Sc., (Agr). On enquiry and verification, the authorities discovered that the petitioner got a seat in reserved category Group-C on the basis of misrepresentation and falsity about the income of his parents and therefore they took action to correct the mistake. In the circumstances, we are of the opinion that this is not a case where this Court can take a lenient view in favour of the petitioner as is taken in Rajendra Prasad Mathur's case. Hence that Decision also is not helpful to the petitioner.

22. Even Sudha's case supra is of no assistance to the petitioner in view of the fact that where the candidate was innocent about her ineligibility for admission and had relied on the representation of College authorities that she was eligible having secured more than 50% in B.Sc., for admission to M.B.B.S., Course. Therefore, the Court took the view that for no fault of the candidate, she should not suffer. Hence, she was allowed to continue her studies in the College where she was admitted. Here the fault lies in the petitioner who made the authorities admit him in the College on the false declaration about the income of his family. Therefore, the authorities having discovered the falsity in the declaration of the petitioner

cancelled his admission. Therefore, he cannot derive any assistance from Sudha's case.

23. Now the question is whether the person like the petitioner is entitled to invoke the extraordinary jurisdiction of this Court under Article 226 of the [Constitution of India](#). A Division Bench of this Court had an occasion to deal with similar question directly arising in KUMARI DMA vs. BOARD OF PRE-UNIVERSITY EDUCATION : ILR 1989 KAR768 . In that case, the appellants and others had appeared for P.U.C. examinations conducted by the Pre-University Board in the month of April, 1982, results of which were announced in the month of June, 1982. They failed in one or the other subjects. In revaluation applied for by them it was found that the total marks entered in the answer books and the marks entered in the facing sheet were found correct. On their representations that some of the answers had not been valued and therefore additional marks should be given to such of the answers which had not been examined by the examiner, the Director of the Board got the answer papers of those failed candidates valued in so far as they related to the alleged answers not valued earlier by the valuer and awarded additional marks in consultation with the Subject Expert nominated by him and entered the additional marks on a separate proforma prescribed for the purpose and directed issue of Pass Certificates. The net result was that all the candidates including the appellants therein who had failed earlier were declared as passed and they were given Pass Certificates accordingly. After some time complaints were received by the State Government that a number of candidates including those appellants had resorted to certain mal-practices after the declaration of results by the Board in the month of June, 1982 and therefore there should be an enquiry into such mal-practices. The State Government considered the gravity of mal-practice to which a large number of students had allegedly resorted to and referred the matter to the Vigilance Commission. The Vigilance Commissioner, after making the necessary inquiry, submitted his report to the Government and on the basis of this report the Government ordered investigation by the Corps of Detectives.

24. The COD made a detailed investigation and found that all those petitioners had resorted to certain mal-practices under the guise of obtaining rebottling of the marks. It examined each of the answer books submitted by those appellants and

found that they had interpolated certain answers in the answer books under the guise of obtaining retotalling of the marks and after such interpolations only they were given certain additional marks by the Director and Pass Certificates were issued to them; that the grant of additional marks was obtained by practising fraud and that therefore the Certificates issued to them should be cancelled. There was also a departmental enquiry against the Director and in that departmental enquiry the Director was found guilty and dismissed from service. The COD also filed charge sheets against those appellants and the Criminal cases were pending. In the meanwhile, those appellants filed Writ Petitions challenging the orders made by the Board cancelling the Pass Certificates issued to them on various grounds.

25. Taking into consideration the facts and circumstances and the questions of law involved in those Writ Petitions, the learned single Judge dismissed them. On appeal the Division Bench considering the discretionary jurisdiction of this Court under Article 226 and the scope of Article 20(3) of the Constitution, held in paragraphs 22, 29 and 30 as follows:-

'It is not possible to contend that this Court which is clothed with the jurisdiction to issue writs in the nature of certiorari should not look into the records which had resulted in the impugned orders... The jurisdiction conferred on this Court is a discretionary jurisdiction and this Court must be satisfied that the parties have approached this Court with clean hands.

On the facts and circumstances of the cases, held; these are not the matters in which this Court should exercise the discretionary power under Article 226 of the Constitution notwithstanding the fact that the enquiry held by the authorities concerned in a matter like this did not fully satisfy the requirements of the principles of natural justice and notwithstanding the fact that a decision rendered in violation of the principles of natural justice is void and non-est.

What all Article 20(3) guarantees is that no person accused of an offence shall be compelled to be a witness as against himself. If the appellants want any relief from this Court, then they have to satisfy the Court that the findings of the Enquiry Committee are not borne out by any material on record. Their plea that if the prosecution pending against them is withdrawn they would make their statements

before this Court does not appear to be a bonafide plea and such a contention deserved no serious consideration by this Court.'

26. Thus holding, this Court dismissed the Appeals, affirming the view taken by the leaned single Judge in the Writ Petition.

27. Therefore, we are of the view that in the instant case also, the petitioner has not approached this Court with clean hands because he obtained a seat reserved for a candidate coming under Group-C by misrepresentation or false declaration knowing fully well that his family income exceeded the income shown and that the authorities concerned having received complaints about the falsity of the declaration, issued the show cause notice, re-considered the whole issue in the light of the documentary evidence and rightly canceled his admission for B.Sc., (Agr) holding that he was able to secure a seat by false declaration. Therefore, applying the Ruling in Kumari Uma's case to this case, we hold that this is not a case in which this Court should exercise the discretionary power under Article 226 of the Constitution to issue a Writ of Certiorari quashing the notification, Annexure-D.

28. We may as well mention that in similar situation the Supreme Court has taken a serious view as against the selection of a student for admission to M.B.B.S., Course by illegal means in GURDEEP SINGH vs. STATE OF J & K AND OTHERS : AIR 1993 SC2638 . Considering, inter alia, the question whether the selection of respondent-6 for admission to M.B.B.S., Course against one of the seats reserved for candidates excelling in certain categories of sports specifically notified as approved sports, on the ground that he was excellent in 'mountaineering' which came to be included in the list of approved sports after the cut-off date when the applications were invited, was justified, the Supreme Court held though it was for the Sports Council to decide about the inclusion or non-inclusion of any particular sport for the purposes of according consideration in the sports category, it was not just en the part of the authorities concerned to include sport 'mountaineering' in the list of approved sports only after the cut-off date was over when the applications were invited for selection of candidates for admission to M.B.B.S., course, with a view to accommodating respondent-6. Considering on

the question of equity, it held in paragraph-9 as follows:-

'What remains to be considered is whether the selection of respondent No. 6 should be quashed. We are afraid, unduly lenient view of the courts on the basis of human consideration in regard to such excesses on the part of the authorities, has served to create an impression that even where an advantage is secured by stratagem and trickery, it could be rationalised in courts of law. Courts do and should take humane and sympathetic view of matters. That is the very essence of justice. But considerations of judicial policy also dictate that a tendency of this kind where advantage gained by illegal means is permitted to be retained will jeopardise the purity of selection process itself; engender cynical disrespect towards the judicial process and in the last analysis embolden errant authorities and candidates into a sense of complacency and impunity that gains achieved by such wrongs could be retained by an appeal to the sympathy of the Court. Such instances reduce the jurisdiction and discretion of courts into private benevolence. This tendency should be stopped. The selection of respondent No. 6 in the sports category was, on the material placed before us thoroughly unjustified. He was not eligible in the sports category. He would not be entitled on the basis of his marks, to a seat in general merit category. Attribution of eligibility long after the selection process was over, in our opinion is misuse of power. While we have sympathy for the predicament of respondent No. 6. It should not lose sight of the fact that the situation is the result of his own making. We think in order to uphold the purity of academic processes, we should quash the selection and admission of respondent No. 6. We do so though, however, reluctantly.

(emphasis is supplied).

29. Following the said Ruling supra, though We have sympathy for the petitioner who has completed four years B.Sc., (Agr). course on the strength of the interim order made by the learned single Judge, since he has secured a seat reserved in Group-C for economically backward candidates by false declaration of the income of his family resulting in cancellation of his admission, the situation being the result of his own making, we have no alternative but to dismiss this Writ Petition. It is accordingly dismissed.

Before parting with this case, we feel it necessary to refer to the Decision of the Supreme Court in GURU MANAK DEV UNIVERSITY vs. PARMINDER Kr. BANSAL AND OTHERS : AIR 1993 SC2412 . The Supreme Court considering the interim orders being made by the High Courts under Articles 226 of the Constitution in the matters of education, has held as follows:-

'Admissions to educational institutions cannot be ordered by means of interim directions without regard to the eligibility of candidates. This kind of administration of interlocutory remedies, more guided by sympathy quite often wholly misplaced, does no service to any one. From series of such interim orders that keep coming before Court in academic matters, it is found that loose, ill-conceived sympathy masquerades as interlocutory justice exposing judicial discretion to the criticism of degenerating into private benevolence. This is subversive of academic discipline or whatever is left of it, leading to serious impasse in academic life. Decisions on matters relevant to be taken into account at interlocutory stage cannot be deferred or decided later when serious complications might ensue from interim order itself. The Court should not embarrass academic authorities by itself taking over their functions.'

Therefore in the light of the Decision of the Supreme Court in the above case, we are of the opinion that it is advisable that the cases of this nature be disposed of as far as possible once and for all at the stage of Interim Orders itself, having regard to the eligibility of the candidates for admission to Colleges and inevitably if an Interim Order granting admission of a student to a College is passed in a Writ Petition, it may be disposed of finally at the earliest so that the serious complications that may ensue by the grant of such Interim Orders and the disposal of the Writ Petitions against the students long after the Interim Orders were made, resulting in the career of the students being at stake, may be avoided.

Immediately after the pronouncement of the order and before it was signed, Sri T.R. Subbanna, learned Senior Counsel, made a fervent appeal to the Court that having regard to the fact that the petitioner has completed four years' course in B.Sc.(Agr) and that in case his education in that course is not regularised, his career would collapse, this Court may direct respondent-2 University to consider

his case for regularisation if he was otherwise eligible as on the date of admission to the College, without referring to the reservation under Group-C. His submission is recorded. In the circumstances, we observe that it is open to respondent-2 to consider this aspect of the matter and pass appropriate orders.

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