SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Geetha Vs. State of Karnataka

Geetha Vs. State of Karnataka

SooperKanoon Citation : sooperkanoon.com/380277

Court : Karnataka

Decided On : Aug-13-1993

Reported in : ILR1993KAR2897; 1993(3)KarLJ300

Judge : Shivashankar Bhat, J.

Acts : Karnataka Selection of Candidates for Admission to Engineering, Medical, Dental, Pharmacy and Nursing Courses Rules, 1993 - Rule 3(1); Constitution of India - Article 14

Appeal No. : W.P. Nos. 16072, 16606, 16546, 16860 and 17084 of 1993

Appellant : Geetha

Respondent : State of Karnataka

Advocate for Def. : N. Devadas, Govt. Adv.

Advocate for Pet/Ap. : Ravivarma Kumar, ;P.R. Ramesh, ;K.N. Subba Reddy and ;K. Subba Rao, Advs.

Disposition : Writ petitions allowed

Judgement :
ORDER

Shivashankar Bhat, J.

1. In all these Writ Petitions the petitioners have challenged the validity of Rule 3(1)(b) of the Karnataka Selection of Candidates for Admission Engineering, Medical, Dental, Pharmacy and Nursing Courses Rules, 1993 ('the Rules' for short). The challenge is confined to the restriction as to the passing of P.U.C. during the period not exceeding two years prior to the year in which application is made for entrance test.

2. In other words, by virtue of this Rule 3(1)(b) in the case of Common Entrance Test held during May 1993, only those who have passed P.U.C. after 1.4.1991 would be eligible. The relevant Rules read as follows :

'3. Eligibility.- (1) No person shall be eligible for admission to any of the full time degree courses specified in Rule 1 unless he :-

(a) xxx xxx xxx(b) has appeared for the three subjects namely, Physics, Chemistry and Mathematics or Physics, Chemistry and Biology, as the case may be, in the Entrance test for selection to the courses specified under Sub-rule (1) of rule 1 and has passed the second year pre-university examination of Karnataka or any other examination declared as equivalent thereto by the concerned University in Karnataka during the period not exceeding two years prior to the year in which the application is made for entrance test'.

(Underlining done here)

3. It was contended before me by the learned Counsel for the petitioners that the above restriction regarding the year for having passed the P.U.C. or its equivalent examination is totally arbitrary and unreasonable and therefore violative of Article 14 of the Constitution of India. The learned Counsel pointed out that in the instant case why should a candidate who has passed P.U.C. in the year 1989 or 1990 should be deprived of an opportunity to appear for the Entrance Test and join the professional course. The professional courses impart education in attractive subjects like Medicine, Engineering, Dental, Pharmacy, Nursing, etc. The Rule cannot deprive a person to prosecute his studies and gain knowledge and if possible engage himself in a convenient profession in future. This apart it was contended that the Rules as such nowhere prescribe any age limit to join the

professional courses and if so, so long as the person is not barred on the ground of age he must have an opportunity to compete with everyone else. The merit is measured by the marks obtained at the Common Entrance Test and the marks obtained at the P.U.C. or equivalent examination. All meritorious students should be treated equally and there should be equal opportunity to candidates to compete and claim a proper place in the merit list, was the contention. In addition to this there is also a further contention advanced stating that by virtue of the recent Decision of the Supreme Court in Unni Krishnan's case even the payment seats are now to be selected on the basis of inter se comparative merit of the candidates and the merit is determined on the basis of the Common Entrance Test and the marks obtained at the qualifying examination. All these years many aspiring candidates could not purchase seats by paying capitation fee but after the recent Decision of the Supreme Court the payment seats are available on payment of reasonable tuition fee and the candidates are to be selected on the basis of their inter se comparative merit and if so there should be an extended opportunity for the candidates who can afford to pay higher tuition fee when selected to the payment seats.

4. Mr. Devdas, learned Government Advocate, on the other hand contended that the purpose is to prevent the candidates who have passed P.U.C. several years ago and those who have passed the qualifying examination several years ago cannot be compared as equal to the candidates who have passed the qualifying examination recently. This apart, the impugned restriction would prevent older people from competing with the younger generation and it is absolutely necessary and in the larger interest of the society that younger generation should have greater opportunity to join the professional courses.

5. The substance of the defence pleaded in the statement of objection is entirely based on the difference in the age amongst the candidates. Another reason advanced is that those who have passed the qualifying examinations earlier would have joined other courses and would have gained either more experience or better knowledge and they will be in a better position to outweigh the younger generation, it is now quite well established that the primary consideration for selecting a candidate for any professional course should be the merit of the

candidate. The Supreme Court has on several occasions pointed out that the purpose of the selection is to select the best candidate available for a particular course. The merit should have its recognition and an opportunity to avail higher studies. The Rules as such nowhere provides any age limit for a candidate to appear in the Common Entrance Test. In other words a reading of the Rules shows that even a person aged 70 years may compete in the Entrance Test of the present year, provided he has passed his qualifying examination on or after 1.4.91. If the purpose of the restriction imposed under the impugned Rule is to prevent older candidates from competing in the examination the said purpose can be served only by prescribing the age limit and not a restriction as to the year in which the candidate has passed the qualifying examination. The other argument of the respondents, actually ignores the very basis of the selection process. If a candidate has gained knowledge and has become meritorious such a candidate should be welcomed into competition rather than kept out of the competition, as has been done in the instant case. The relevant principles are already considered by this Court in two Decisions.

6. In PEARSON SANKARAN v. DIRECTOR OF TECHNICAL EDUCATION, : ILR 1985 KAR3690 , an identical question came up before this Court in connection with the validity of the then Rule 5 of the Rules. The said Rule stated that those who have passed P.U.C. or equivalent examination in 1982 and onwards are only eligible. This Court held that the said restriction as to eligibility was violative of Article 14 of the Constitution. After referring to the argument of the respondents that the candidates who have passed P.U.C. examination earlier would have undergone the degree courses and therefore there was no reason to give them seats in the professional colleges, the learned Judge observed thus:

'I find it difficult to appreciate as to how the said basis is a rational one, A student who has passed the Pre-University examination held in September 1981 as also a student who passed the Pre-University examination held in April 1982 could join the degree course only in the academic year 1982-83 and not earlier and could complete the degree course only in the academic year 1984-85. Therefore, it is not correct to state that they would have completed degree as the degree is 3 years course. Moreover, the Learned Counsel, rightly pointed out that even candidates

who have passed the degree are eligible for admission to the engineering course and that 5% of the seats are reserved in favour of degree-holders.

The fact that a student who has passed the Pre-University examination was unable to get seat during one or two academic years and, therefore, he was studying for degree course, could hardly constitute a rational basis to deny him the seat if he is entitled to get the seat during the third academic year.

As pointed out by the Supreme Court in the case of D.R. Nim v. Union of India : (1968)ILLJ264SC , even while selecting a date for classifying persons into two groups, the date must have some rational basis. The State cannot, as pointed out by the Supreme Court, pick out a date from a hat and say that the persons who have passed the Pre-University examination subsequent to that date are eligible and those who passed earlier are ineligible.'

In G.S. RADHIKA v. COMMR. FOR HEALTH AND ORS., 1981 (1) KLJ 417 a similar question arose. Even though there was no restriction as in the present impugned Rules, the petitioner contended that there should be such a classification between the candidates who have passed the qualifying examination far earlier to the candidates who have passed the same recently. The contention was that these two groups of candidates cannot be treated on par and treating them as belonging to a single class violated Article 14 of the Constitution. This contention was rejected by this Court and it was held that if such a classification were to be made the said classification would be violative of Article 14 6f the Constitution. The candidates who have passed the qualifying examination during any earlier years are deemed to be equal to the candidates who have passed a similar examination recently from the point of view of their respective merits. The University has recognised both examinations as equal and the fact that during some of these years the mode of valuing answers was different is no ground to treat the candidates differently. At page 419 the Court observed as follows:

'.... The question for consideration in these cases is whether there existed a valid basis for classification and there has been a failure on the part of the State to make the classification. In my view all the persons who acquire qualification by passing Pre-University Examination conducted by the Pre-University Board or any

Degree, Diploma, or Certificate after passing the prescribed examination conducted by any University or any other academic authority which are considered as equivalent by competent bodies cannot on any rational basis be considered as persons dissimilarly situated on the ground that all of them did not appear at the same examination conducted by the same authority. The contention urged for the petitioners, if accepted would destroy the very concept of academic equivalence of degrees, diplomas and certificates, awarded by different universities and academic authorities or institutions, and not only that, even similarly degrees, diploma or certificates awarded by the same university or institution or authority for having passed at different examinations would not be equal to each other, either for making selection for higher courses or for even making selection for appointments under the State and consequently separate quota would have to be reserved for the applicants who have passed in each examination and also to the applicants who have passed in each examination and also to the applicants who have acquired degree... diploma or certificate from different universities or academic authorities. In fact, the petitioners are insisting for the making of a classification where there is absolutely no basis for classification. Therefore, I reject the first contention.'

Again at page 421 the Court held :

'.... The only question which is relevant for consideration in these petitions is whether the procedure adopted by the selection committee in comparing the marks of the candidates secured in the Pre-University examination without classifying them as candidates who have passed the Pre-University examination in different years was violative of Article 14 of the Constitution. As stated earlier the passing of Pre-University examination is a condition of eligibility for selection for admission to the I Year M.B.B.S., course under Rule 2. Similarly under Rule 10 the merit of candidate is required to be adopted on the basis of the clerks secured by the candidates at the Pre-University Examination. The question as to in which year, a candidate had passed the Pre-University examination is not at all relevant for adjudging the merit. All the candidates who have acquired the same academic standard, namely, by passing Pre-University examination in different years dissimilarly. Therefore the selection committee was right in comparing the merit of

the candidates on the basis of the marks secured by the candidates in the Pre-University examination without going into the question as to the year in which they passed the Pre-University examination.'

At para 10, the Court observed that it was difficult to say that the merit of the candidates who appeared earlier was inflated or that the Pre-University Board has adopted discriminatory methods of gracing. In P. RAJENDRAN ETC v. STATE OF MADRAS AND ORS., : [1968]2SCR786 the Supreme Court pointed out that object of selection to medical colleges can only be to secure the best possible talent.

7. If this is the purpose behind the Rules then the basis of classification should have proper correlation with this object of securing the best possible talent. I am of the view that the impugned Rule in fact denies the opportunity for the possibly best talent to compete in the Common Entrance Test The talent has nothing to do with the year of the qualifying examination of the candidate.

8. In STATE OF KERALA v. T.P. ROSHANA, : [1979]2SCR974 it was pointed out that, at page 43;

'The vagarious element in marking and moderation of marks may be a fact of life, but to margin ate to qualify for substantial difference unless otherwise made out.... mini classification based on micro distinctions are false to our egalitarian faith and only substantial and straightforward classifications plainly promoting relevant goals can have constitutional validity. To overdo classification is to undo equality.'

9. in fact almost a similar Rule was set aside by the Judicial Commissioner of Goa, Daman and Diu, as could be seen from MUKUL. MADHUKAR SINAI MAHATME AND ETC v. DEAN. GOA MEDICAL COLLEGE, PANAJI AND ORS. ETC., AIR 1981 Goa, Daman & Diu 39 It was concluded there at page 47 that a decision of the authorities concerned confining admission to the Post Graduate course of the Medical College to the students of current batch is violative of Article 14 of the Constitution. There is another aspect to be considered. In the case of the Common Entrance Test held in May 1993 the eligibility is confined to those who have passed P.U.C. on or after 1.4.91. In other words the bar operates in respect of those who have passed P.U.C. prior to 1.4.1991. The question is what is the

speciality of this date i.e. 1.4.1991 with reference to the current years Common Entrance Test. It is nothing but 'picking out a date from a hat' as observed by the Supreme Court in D.S. NAKARA's case, : (1983)ILLJ104SC . The division caused by this choice of the date is not referable to any rational principle and as the Supreme Court observed at page 147 :

'... if the choice of the date or classification is wholly unrelated to the objects sought to be achieved, it cannot be upheld on the specious plea that that was the choice of the Legislature.'

10. For the reasons stated above, it is not possible to sustain the impugned Rule so far as it imposes the restriction as to the period within which the qualifying examination should have been passed by a candidate. Consequently, I declare the relevant part of Rule 3(1)(b) as violative of Article 14 of the Constitution resulting in its invalidation. Respondents are restrained from enforcing the said part of Rule 3(1)(b) and shall consider the cases of all these petitioners dehors the said part of Rule 3(1)(b). Respondents are directed to announce the results of all these petitioners by treating them as eligible candidates on par with other candidates who results have been announced. The results of all these petitioners also shall be accordingly announced forthwith. The petitioners are entitled to all consequential treatment by the invalidation of the impugned Rule.

Writ Petitions are accordingly allowed. No costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com