

Muralidhar Vs. State of Karnataka

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Court : Karnataka

Decided On : Oct-19-1995

Reported in : ILR1996KAR58

Judge : G.C. Bharuka, J.

Acts : Karnataka Selection of Candidates for Admission to Engineering, Medical & Dental Courses Rules, 1993

Appeal No. : W.P. No. 34197 of 1995

Appellant : Muralidhar

Respondent : State of Karnataka

Advocate for Def. : A.V. Srinivasa Reddy, Govt. Adv.

Advocate for Pet/Ap. : T.S. Mahabaleshwara, Adv.

Disposition : Petition dismissed

Judgement :

Bharuka, J.

1. This Writ Petition has been filed by the Petitioner seeking Writ of Mandamus directing the respondents to allot a seat to the Petitioner in Engineering Course treating him to be 'Karnataka Student' within the meaning of Clause 5(d) of the

Brochure issued by the Special Officer (Examination) pertaining to holding of Common Entrance Test for Admission to Medical, Dental and Engineering courses in 1995.

2. According to the petitioner, his parents hail from Karnataka; his father is presently serving in a Zonal Office of the Syndicate Bank at Hyderabad. As per Annexure B, a certificate issued by the Deputy Divisional Manager of the said Bank, father of the petitioner has declared his domicile as 'Udupi - Karnataka'. According to the Petitioner, his mother Smt. Dakshayini has studied in Karnataka at Udupi upto 2nd Year PUC. In support of the said fact he has enclosed the Cumulative Record, SSLC Marks Card (Annexures E and F respectively). The petitioner had appeared for 1995 Common Entrance Test held by the third respondent as 'Karnataka student' falling under the exempted Clause 5(d) of the relevant Brochure at Annexure-C and he was also called for the Spot Counselling on 15.9.1995 for giving his optional in Engineering Course. But he was denied the said benefit on the ground that the Petitioner does not fulfill the requisite criteria for treating him as falling under the exempting Clause 5(d) of the Brochure (Annexure-C).

3. The English and Kannada versions of Clause 5(d) as contained in Annexure-C are to the following effect:

'5. Exemptions: The minimum 10 years study in Karnataka rule (para 4.2) is exempted to the extent noted below.

a to c xxx xxx xxx

d. Sons/Daughters of employees of Central Government and of Central/State or Joint Sector Undertakings either working or retired where such employee had, while joining service,

(i) declared to the employer any place in Karnataka as his/her home town, and

(ii) studied for not less than Ten years at any time between the first standard and SSLC or equivalent examination in any educational institution in the present State of Karnataka run or recognised by the State Government - Full extent.'

4. From the English version it is clear that it is the employee who should himself have read for the prescribed length of period between first standard and SSLC or the equivalent examination in any recognised institution in the State of Karnataka. But in the translated Kannada version it has been stated that either of the parents should have fulfilled the said requirement i.e. Petitioner by taking advantage of the Kannada version insists that since his mother, though she is not an employee, has fulfilled the said criteria, and therefore, he is entitled to a seat as a 'Karnataka student' which has been arbitrarily refused.

5. Admittedly, the Brochure has been framed on the basis of the Statutory Rules namely 'The Karnataka Selection of Candidates for Admission to Engineering, Medical, Dental Courses Rules, 1993' (hereinafter in short, 'the Rules' only). Rule 2(1) of the Rules defines 'Karnataka Student' and the Proviso to the said Clause (1) enumerates exceptions. Before proceeding further, it may be noticed here that 10 years reading requirement as envisaged under the 1995 amendment to the Rules has been stayed by the Supreme Court for the academic year 1995-96 by its Order dated 11.8.1995 reported in : AIR 1995 SC2431 , T M A Pai Foundation v. State of Karnataka. The relevant exception for the present purpose is under Sub-clause (4) of the said Proviso which reads as under:

'Son or Daughter of working or Retired Central Government Employees, Employees of Central or State Government Undertakings or Joint Sector Undertakings where such employees:-

(i) had declared to the Central Government at the time of joining service any place in Karnataka to be their Home Town, and;

(ii) have studied in any Educational Institution in Karnataka run or recognised by the State Government for not less than five years at any time between the first standard and SSLC or its equivalent examination'.

6. These Rules have been framed and published only in English language. No authenticated translation of these Rules has been published by the Government. From the said Rules, it is quite clear that it is the employee himself whose son intends to compete for the professional course should have read in some

recognised institution in Karnataka for a given length of period. Reading of the spouse of this class of employees in the said manner is of no consequence. Accordingly, in my considered opinion, respondents were right in rejecting the claim of the petitioner for opting a seat in the Engineering course pursuant to CET which the petitioner had wrongly availed.

7. Learned Counsel for the petitioner submits that the mistake committed in the translation should enure to his benefit, because it was on the basis of Kannada version published in the Brochure that he had made the application. This plea has to be rejected for more than one reason. The father of the petitioner is an officer in the Syndicate Bank. It is not the case of the petitioner that either he or his father does not know English, or that they have read only Kannada and not English. Therefore, in that view of the matter, there could not have been any occasion for getting misled, though the careless and negligent act of the translator has given rise to certain amount of confusion. But the said confusion is well resolved by the Statutory Rules which are unambiguous and clear in their terms. It cannot be disputed that in such situations it is the Statutory Rules alone which has to prevail because the right to admission is primarily governed by those Rules. It has also to be borne in mind that in case of inconsistency between the original and its translation, it is the original which has to prevail.

8. Rule 9(2) of the Rules provides that the appearance at the Entrance Test does not entitle the candidate to be considered for admission automatically unless the candidate satisfies all the conditions of admission requirement stipulated in the Rules. In the present case, as seen above, as per Rules the petitioner does not fulfil the requisites for claiming a seat as a 'Karnataka Student'. Therefore his mere appearance at the Entrance Test is of no avail to him. It is well settled that no estoppel can be pleaded against the statute.

9. It also needs to be observed here that the respondents should be henceforth more careful in framing the Brochures and carrying out translations. Care should be taken to ensure that Brochures are made in strict conformity with the Statutory Rules. It should be also clearly indicated in the Brochure that it has been made under and in accordance with the Rules and in case of any ambiguity reference

should be made to the said Rules.

10. For the aforesaid reasons, though the petitioner is not entitled to the relief claimed, it is apparent that he has been made to involve in the present litigation only because of the careless and negligent act of the Special Officer (Examination) who is responsible for printing of Brochure as provided under Rules 7 and 8(4)(a) of the Rules. Therefore the said Special Officer is held liable to pay Rs. 1,500/- as costs to the Petitioner, which should be remitted to the Petitioner through a crossed Bank demand draft within fifteen days of the communication of this order.

11. Writ Petition stands dismissed subject to costs as above.

12. Let a copy of this Judgment be handed over to the learned Additional Government Advocate for needful.

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