

**Ravinder Kumar Vs. State of Karnataka**

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**Court :** Karnataka

**Decided On :** Dec-15-1994

**Reported in :** ILR1995KAR282; 1995(1)KarLJ675

**Judge :** A.J. Sadashiva, J.

**Acts :** Karnataka Selection of Conditates for Admission to Engineering, Medical, Dental, Pharmacy and Nursing Rules, 1993 - Rule 3(1)

**Appeal No. :** W.P. No. 35111 of 1994

**Appellant :** Ravinder Kumar

**Respondent :** State of Karnataka

**Advocate for Pet/Ap. :** B. Veerabhadrappa

**Disposition :** Petition rejected

**Judgement :**

ORDER

Sadashiva, J

1. The Petitioner has presented this Petition for a Writ of Mandamus directing the respondents to consider his application for allotment of a free seat in first year B.E. (Mechanical) for the academic year 1994-95.

2. The complaint of the petitioner is that he appeared for Common Entrance Test held in the month of May 1994 and at the result declared in July 1994, he secured a ranking 20136. He further states that he has passed CBSE XII Standard at the two different examinations, one at the examination held in the month of March 1994 and another at the examination held in August 1994; the respondents have allotted seats to students possessing same qualifications with a lesser ranking than that of the petitioner and that, application of the petitioner was rejected arbitrarily and therefore, he is entitled for a Writ in the nature of Mandamus.

3. The admitted facts in this case are that the students seeking for admission either for first year Engineering or for first year MBBS, shall have appeared for 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 (3) of Rule (1) of the Karnataka Selection of candidates for admission to Engineering, Medical, Dental, Pharmacy and Nursing Rules, 1993 (for short 'the rules') in addition to passing the second year Pre-university examination in Karnataka or any other examination declared as equivalent thereto by the concerned University in Karnataka. The petitioner has no doubt passed CBSE XII Standard which is declared as equivalent to two years Pre-university course in Karnataka. But the question in this Petition is whether the petitioner possessed the eligible qualification as on the date of application for admission to Professional Colleges for the year 1994-95. The academic year 1994-95 commences from first of July 1994 and the applications to take CET examination are to be filed in the month of March 1994. The petitioner has passed all the subjects except Biology at the examination held in the month of March 1994 and he completed the CBSE XII Standard at the examination held in the month of August 1994, It is therefore clear that the petitioner had not passed either two years Pre-university examination or any other examination declared as equivalent thereto as on 1st July 1994, the date of commencement of the academic year 1994-95.

4. Rule 3(1) of the Rules prescribes the eligible qualification for admission to any of the full time degree courses specified in Rule (1) of the Rules. It reads 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) has passed the Second year of pre-university course with Physics, Chemistry and Mathematics, in respect of admission to Engineering course and Physics, Chemistry and Biology in respect of Medical and allied courses, as optional subjects and English as one of the languages and has obtained not less than 50% of the aggregate marks in the optional subjects.'

It is clear from Clause (a) of Sub-rule (1) of Rule 3 of the Rules that the students seeking admission must have passed second year Pre-university examination with the optional mentioned therein. However, Sri B. Veerabhadrappe, learned Counsel for the petitioner, placed emphasis on Clause (b) of Sub-rule (1) of Rule 3 of the Rules and contends that the Rule does not prescribe the date within which the student shall possess eligible qualification and therefore, it is sufficient if the student possess such qualification which makes him eligible for admission before allocation of seats; the commencement of academic year is not relevant as the expressions 'during the period not exceeding two years prior to the year in which the application is made for entrance test' are deleted from Clause (b) of Sub-rule (1) of Rule 3 of the Rules. He further states that the respondents have infact understood the provision as such and accordingly, they have allotted seats to many other students situated similar to that of the petitioner. In view of this submission, it is necessary to extract Sub-clause (b) of Sub-rule (1) of Rule 3 of the Rules which reads as under:

'3(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 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 (3) 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.'

Even if the portion emphasised are deleted from Sub-clause (b), it does not mean that any person possessing the eligible qualification before allotment are also entitled for admission to first year Engineering or first year MBBS course. It is true that Rules do not prescribe any date within which the applicant should possess eligible qualification. It is well settled Rule of construction, that where a provision of law, does not deal with any situation either expressly or necessary implication, the same shall be construed rationally in the light of the scheme of the statute. It is therefore natural that, any student seeking for admission in any course not necessarily professional course, shall possess the eligible qualification as on the date of commencement of the academic year. If the student does not possess the eligible qualification as on the date of commencement of the academic year, he is not entitled to seek admission for such course even though there is delay in allocation of seats or commencement of the Course. This is clear from the provision of Rule, which prohibits the admission of any person to any full time degree courses, unless he has passed the second year of Pre-University courses. The eligibility shall be as on the date of application, which is referable only to the commencement of academic year. The allocation of seats and commencement of classes will be naturally delayed for various reasons such as inviting applications, processing the applications, classifying the applications under different groups and calling the students for interview, etc. If any student possesses eligible qualification during this process, he is not entitled to make any application as the date prescribed for filing applications had already been expired and such applications are incompetent applications and shall not be taken into consideration at all.

5. Sri B. Veerabhadrapa, learned Counsel appearing for the petitioner, submits that the restrictions imposed on the students with reference to the date of acquisition of eligible qualification since removed by deleting the expressions 'during the period not exceeding two years prior to the year in which the application is made for entrance test' from Sub-clause (b) of Clause (1) of Rule 3 of the Rules, the date of possession of qualification is immaterial if the student satisfy the condition before allocation of seats. This contention cannot be accepted

for the reason that the expressions deleted do not deal with the date of acquisition of qualification; by deletion of these expressions, the restriction imposed on the students for taking common entrance test has been removed and it does not provide for enlargement of the period within which the applicant should possess the eligible qualification. As the petitioner, admittedly, did not possess the eligible qualification as on the date of commencement of academic year and the date of application seeking for admission to first year Engineering course, he is not entitled for admission to first year Engineering course for the academic year 1994-95 even though he has passed the equivalent examination before allocation of seats but after commencement of the academic year.

6. Sri B. Veerabhadrappe, learned Counsel, next submits that many applicants similar to petitioner have been admitted treating their qualification as equivalent to two year Pre-university course in the State of Karnataka, even though they have passed their CBSE XII Standard examination after commencement of the academic year 1994-95 and therefore, the petitioner is also entitled for similar benefit. No material is produced in support of the said contention. Even otherwise, it may be said that the respondents have committed illegality in considering the case of some of the students, but that does not mean that the petitioner is entitled for Writ in the nature of Mandamus to respondents to continue the same illegality.

7. In the result, Petition fails. Accordingly, it is rejected.

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