

M. Venkatesham Vs. Controller of Examinations, Osmania University, Hyderabad and ors.

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Court : Andhra Pradesh

Decided On : Jan-29-1988

Reported in : AIR1989AP198

Judge : P.A. Chowdary, J.

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

Appeal No. : W.P. No. 15283 of 1987

Appellant : M. Venkatesham

Respondent : Controller of Examinations, Osmania University, Hyderabad and ors.

Advocate for Def. : H.S. Gururaja Rao, Standing Counsel and ;D. Prabhakara Reddy, Adv.

Advocate for Pet/Ap. : M. Narasaih, Adv.

Judgement :

ORDER

1. The petitioner was final year M.B.A. student of the University. The examinations for the IV semester were being conducted in the month of Sept. and Oct. 1987.

According to the time-table, the last examination in the IV semester was to be held on 3-10-1987. But the University had decided to postpone the holding of the examination then scheduled to be held on 3-10-1987 and shifted the date to 5-10-1987. For that purpose, it had put up a notice on the notice-board on 2-10-1987 informing the examinees that the postponed examination would be held on 5-10-1987. But it realised that notice might not be sufficient or adequate to all the examinees. It has therefore, sent the same notification for publication in the local newspapers like the Udayam, the News Time, the Indian Express and the Deccan Chronicle. This notification of the University was published correctly in all the newspapers on 4-10-1987 informing the postponed examination would be held on 5-10-1987. But unfortunately the Deccan held on 5-10-1987. But unfortunately the Deccan Chronicle, the respondent No. 5, alone had wrongly printed the notification. According to notification printed in the Deccan Chronicle, postponed examination would be held on 6-10-1987. The petitioner says that by the notification published by the University in the Deccan Chronicle, he had been misled and, therefore, could not appear for the examination held on 5-10-1987. The consequence of this would be to deny the petitioner to pass the examination in one attempt and to get a first class. In our country scholarship is measured by the certificates obtained from the degree awarding institutions like the Universities and in the market, if the petitioner cannot secure a first class, his chances of employment would be seriously affected. The question is to what degree the University could be held responsible for this serious lapse on the part of the Deccan Chronicle. It cannot be said that putting up of notice on the University notice-board was enough. In any case, the University did not treat it so. It acted on the assumption that that notice was not sufficient. It was for that reason it has sent the notification for publication. For publication purpose, the Deccan Chronicle was one of the newspapers chosen by the University presumably for the reason that some of the examinees might read only that newspaper and no other. From the above undisputed facts, it appears to me reasonable to hold that for the decision to publish the notification in the Deccan Chronicle, the University was wholly responsible. From that it should follow that the University is responsible for the wrong publication of the notification. I am not suggesting that the University intended or invited this mishap on the part of the Deccan Chronicle. But in law,

when rights and wrongs have to be adjudicated, the University that is responsible for sending the notification should also be held responsible for seeing it published properly. Its responsibilities do not cease the moment the notification was sent to the paper particularly when the paper had misled the intended reader. When the University had chosen the Deccan Chronicle as one of the newspapers, it cannot escape its responsibility for any misstatement made on that notification leading to the injury to the petitioner. The responsibility of the University should be fixed. This is clearly not a case of newsgathering by the newspaper. Absence of mens rea being irrelevant in a case like this, I hold the University responsible for the wrong printing in the Deccan Chronicle for the reason that it is the University that has deliberately chosen the media of Deccan Chronicle for publication of its notification.

A reader is entitled to believe that what is printed in a newspaper chosen by the University and in the name of the University regarding the date of holding of the postponed examination was prima facie correct. The University had taken no steps whatsoever to correct the serious mistake committed by its chosen agency for publication. I have no doubt that it is the Deccan Chronicle that has really committed this mistake and the notification which the University has sent to all the newspapers like the Udayam, the News Time and the Indian Express had correctly informed their readers that 5-10-1987 was the date of the examination. But in law, I am of the opinion that the University will still be liable and responsible for the publication which it made in its name in the Deccan Chronicle chosen by it. I am of the opinion that the career of the Student cannot be allowed to be sacrificed by accepting such facile argument as the one advanced before me to the effect that the University could not be held responsible for what was printed in its name in the newspapers. In this case the degree to which the petitioner had been misled by reading the Deccan Chronicle was not in doubt. The ends of justice will be met if the University permits the petitioner to appear for the sixth paper, Marketing Research, in the supplementary examination, which I am told, it is going to hold in the month of Feb./Mar., 1988, treating the petitioner as a regular candidate, in the over all circumstances mentioned above, where the University is, at least, partly responsible for the situation, I think that the justice in the case demands no less. I accordingly direct the University to allow the petitioner to take his examination in

the Marketing Research paper in the supplementary examination, which, I am told it is going to hold in the month of Feb./Mar., 1988 treating the petitioner as a regular candidate and publish the results on the basis of his performance in all the papers.

2. The Writ petition is accordingly disposed of. No costs.

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