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Court : Andhra Pradesh

Decided On : Aug-13-2001

Reported in : 2001(5)ALD701; 2001(6)ALT118

Judge : S.B. Sinha, C.J. and ;V.V.S. Rao, J.

Acts : [Constitution of India](#) - Article 226; Andhra Pradesh Intermediate Education Act, 1971 - Sections 12

Appeal No. : WA No. 1130 of 2001

Appellant : V. Preetham

Respondent : Secretary, Board of Intermediate Education, Hyd. and Others

Advocate for Def. : Government Pleader for Higher Education and ;Mr. T.V. Prabhakar Rao, Adv.

Advocate for Pet/Ap. : Mr. K. Vasudava Reddy, Adv.

Disposition : Petition dismissed

Judgement :

V.V.S. Rao, J.

1. The appellant is a student of Intermediate. He joined the course in 1999, in his first year examination during March/April, 2000, he failed in two subjects. He continued his second year course and appeared for the second year public examination conducted by the first respondent in March/April, 2001. The results were declared. He failed in four subjects of second year. It appears he also appeared for two subjects of first year in which he failed along with second year papers and he could pass only one paper of first year. Therefore, factually the appellant is yet to pass one paper in first year and four papers in second year examinations.

2. The Board of Intermediate Education conducts an instant examination immediately after announcement of the results apart from regular supplementary examination. The system of advanced supplementary examination was introduced with a view of save one academic year for the students who failed in the examinations. On 6-6-2000 when the results were announced the first respondent issued a press release in relation to advanced supplementary examination of July, 2001 (instant examination). As per the press release the following candidates were declared as eligible for instant examination to be held in 2001.

(a) I-Year Students, who failed in all papers or less in March, 2001;

(b) II-Year Students, who failed in 4 papers or less in March, 2001;

(c) All students, who were not permitted to appear in March, 2001 due to late admission.

3. The last date for submission of application forms for the instant examination was 15-6-2001 and examinations were to be conducted from 2-7-2001 to 9-7-2001. The appellant approached the fourth respondent, the Principal where the petitioner studied and offered to pay fees for instant examination. But, the fourth respondent refused to accept the application and free allegedly on the ground that the appellant failed in one paper of first year and four papers of second year and therefore he is not eligible to appear for the instant examination.

4. The appellant filed WP No. 12010 of 2001 seeking a writ of mandamus declaring the action of the respondents in not permitting him to appear for the advanced supplementary examination in July, 2001 for Intermediate course by duly accepting the fees and application form is illegal and arbitrary and also for a direction to the respondents to permit him to sit for July, 2001 instant examination.

5. A learned single Judge while admitting the writ petition, in WPMP No.14893 of 2001 on 20-6-2001 issued the following interim order :

In view of the subsequent press release in Rc No.44/C25-4/2001 dated 6-6-2001 the bar envisaged in earlier press release dated 27-4-2001 is related. In view of the same, there shall be interim order directing the respondents to permit the petitioner to appear for the Intermediate Advanced Supplementary Examination in July, 2001. But result of the examination cannot be released until further orders:

6. The first respondent immediately filed a counter-affidavit and also miscellaneous application being WVMP No.1605 of 2001 praying to vacate the interim order dated 20-6-2001. However, another learned single Judge having heard the learned Counsel for the respective parties finally, dismissed the writ petition and vacated the interim order. In the counter-affidavit filed by the first respondent the scheme of the examination was explained as under:

The following candidates would be eligible for appearing in advanced supplementary examinations :

- a. All the 1st year candidates who wish to appear for improvement in all or less papers.
- b. 1st year students who failed in all papers or less in March, 2001.
- c. 2nd year students who failed in any 4 (four) or less than 4 papers or either in 1st year or 2nd year including practicals of March, 2001.
- d. All the students who were not permitted to appear in March, 2001 due to late admission.

7. It was stated that the appellant having failed in four subjects or second year and one subject of first year is not eligible to appear in instant-cum-advanced supplementary examination to be conducted from 2-7-2001.

8. A submission was made before the learned single Judge that according to the press release dated 27-4-2001 (not produced before us) which preceded the press release dated 6-6-2001 the appellant is not eligible to appear for the instant examination whereas according to the later pressrelease he cannot be denied an opportunity of appearing in the instant examination. Having regard to the submission, the learned single Judge summoned the record relating to the proceeding and resolution passed by the A.P. Board of Intermediate Education prescribing eligibility criteria for appearing in the instant-cum-advanced supplementary examination. As recorded by the learned single Judge the resolution reads as follows:

- (a) First year students who failed in all papers or less in March, 2001;
- (b) Second year students who failed in four papers or less in March, 2001;
- (c) All the students who were not permitted to appear in March, 2001 due to late admission.

9. After noticing the above resolution the learned single Judge dismissed the writ petition observing thus:

A bare reading of the resolution would make it clear that the candidates who failed in first year in all papers or less in March, 2001 are entitled to appear for the Advanced Supplementary Examinations. Such of the second year students who failed in four or less papers in the examination held in March, 2001 are entitled to write the Advanced Supplementary Examinations. It also makes it clear that all those students who were not permitted to appear in March, 2001 due to late admissions were also permitted to appear for the Advanced Supplementary Examinations. It cannot be said that a student who failed in first year as well as four or less papers in the second year examinations held in March, 2001 are entitled and eligible to writ the Advanced Supplementary Examinations

commencing from 3rd July, 2001. Only such of those second year students who failed in four or less papers in March, 2001 are entitled to write the Advanced Supplementary Examinations. As far as the petitioner is concerned, he not only failed in four papers of the second year in the examinations held in March, 2001, but also failed in one paper of the first year in the examinations held in March, 2001. It is clear that unless one completes all the subjects of the first year cannot be permitted to write the second year papers in the Advanced Supplementary Examinations.

10. The learned Counsel for the appellant invited our attention to the counter-affidavit filed by the first respondent and submits that the same is not in accordance with the resolution of the Board of Intermediate Education. According to the learned Counsel even a student who has failed in some papers in first year in March, 2000 examination is also eligible to appear in the instant examination in July, 2001. We are afraid, we cannot agree with the submission of the learned Counsel. A reading of the resolution shows that the instant-cum-advanced supplementary examination is intended to enable the first year students and second year students who appeared in March, 2001 alone to take up the instant examination. The petitioner admittedly failed in first year papers in March, 2000 and again appeared for the two failed papers of first year along with all papers of final year in March, 2001. Therefore, he cannot be permitted to take both first year papers and second year papers in the instant examination. The object of instant examination is to enable those students who failed in March, 2001 either in first year or second year examinations to appear immediately and get pass certificate to enable them to seek admission in higher courses. The submission that the appellant falls in Categories (a) and (b) is misplaced. Initially the petitioner failed in first year papers in March, 2000 and 2001 and therefore he cannot come within the category of (a). As per the scheme of examination a person who has passed all the papers of first year in March, 2000 examination can alone be considered as falling in category (b) which includes second year students who failed in four papers or less in March, 2001. Further, when a body of experts like Board of Intermediate Education formulate scheme of examination, the final word as to how the scheme of examination should be implemented must lie with the Intermediate Board.

11. A Division Bench of this Court in Secretary, Board of Intermediate Education, Hyderabad v. S. Srivalli, : 2000(3)ALD474 (DB), to which one of us (V.V.S. Rao, J.) was a member, after noticing various provisions of A.P. Intermediate Education Act, 1971 especially Section 12 of the Act which empowers the Board to make regulations to carry out the purpose of the Act including the Regulations providing for subjects and conduct of Intermediate examination held that the question as to whether a scheme is arbitrary or unreasonable is not justifiable. Making a reference to and placing reliance on Council of Civil Service Unions v. Minister for the Civil Service, (1984) 3 All. Er 935, S.R. Bommai v. Union of India, AIR 1984 SC 1918, University of Mysore v. Govinda Rao, : [1964]4SCR575 , Maharashtra SBOS and H.S. Education v. Paritosh, AIR 1985 SC 1543, J.P. Kulshreshta v. Allahabad University, : (1980)IILLJ175SC , State of U.P v. D.K. Singh, : AIR 1987 SC190 , and Dr. Malleswara Rao, v. University of Health Sciences, (1990) II An. WR 270, this Court held as under:

Therefore, insofar as Indian Public Law is concerned, if there are no judicially manageable standards for scrutinising the material, which is the basis for the decision, and the Court is not equipped to deal with the situation presented beforeit, such issues are non-justiciable. Also if the decisions are made or taken in the area of subjective satisfaction depending on some imponderable or inferences, such issues are not justiciable, because there are no judicially manageable standards for resolving such controversy.....Inthe field of education, the Hon'ble Supreme Court, in number of cases has laid down that ordinarily academic matters are outside the purview of judicial review, so to say academic matters are ordinarily not justiciable.

12. Having regard to the various decisions of the Supreme Court in academic matters ordinarily the Court exercising jurisdiction under Article 226 of the [Constitution of India](#) would not to interfere with the decision of the academic bodies. In any event, after examining the resolution from various angles we arc satisfied that the appellant would not come within the categories who are eligible to appear for the instant-cum-advanced supplementary examination. The impugned judgment of the learned single Judge cannot be assailed on any ground.

In the result, the writ petition fails and the same is accordingly dismissed. There shall be no order as to costs.

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