

M. Satyanarayana

Vs

State of Karnataka and Another

Civil Appeal No. 600 of 1986

(K. N. Singh, Sabyasachi Mukharji JJ)

12.03.1986

JUDGMENT

SABYASACHI MUKHARJI, J. -

1. This is an appeal by certificate under Article 133(1)(b) of the Constitution from the decision of the Division Bench of the High Court of Karnataka dismissing the appeal against the judgment of the learned Single Judge of that High Court. The appellant herein who is a student of some academic distinction and ability sought admission to the 1st year of MBBS course to the Directorate of Medical Education, Karnataka. The appellant was an applicant to one of the government seats in the Medical Colleges managed by the government or one of the seats to which the government was entitled to in the private medical colleges.

2. The appellant was seeking admission under special category reserved for sons of political sufferers or freedom fighter. The relevant rule is Rule 4 of the Karnataka Medical Colleges (Selection of Candidates for Admission) Rules, 1984. Note (iii) of the said rule has defined a Political Sufferer or Freedom Fighter as follows :

A person

(a) who prior to August 15, 1947 participated in the National Movement for the emancipation of India, that is in the struggle for Indian Independence; and

(b) who even after August 15, 1947 participated in the struggle in any princely State for securing accession of such State to the then dominion of India, who on account of such participation -

(i) has suffered imprisonment or detention for a period of not less than three months, the said period being calculated taking into account the period of remission, if any, granted for good conduct, other like reasons; or

(ii) has been awarded capital punishment; or

(iii) had died while undergoing sentence or detention; or

(iv) was killed or became permanently incapacitated by police or military firing or lathi charge; or

(v) lost his job, property or other means of livelihood;

(vi) where certificates of imprisonment are not available due to records being destroyed, etc., an affidavit by the political sufferer about his imprisonment supported by a certificate from a Member of Parliament or a Member of the State legislature, who has been in jail with him specifying the period of imprisonment would be accepted.

3. The case of the appellant was that his father had participated in 1942 Movement and was imprisoned from September 10, 1942 to October 2, 1942. His further case is that because of the aforesaid participation, his grandfather i.e. father of the appellant's father, was annoyed and turned him out of the house and so the father of the appellant could not pursue his studies and therefore could not qualify himself well for good job. The appellant claimed admission on the ground of being a son of a freedom fighter or political sufferer and that he belongs to a special category and should be treated as such. It is contended that clause (a) of Note (iii) of Rule 4 of the Rules should be read independently as well as clause (b) not only of each other but also what follows by way of proviso though not so mentioned. The learned Judge was unable to accept that contention. The Division Bench accepted this view of the learned Single Judge.

4. Reservations in favour of sons of political sufferers are considered to be belonging to a special category. There is rationale behind it. Those who are political sufferers undergo certain disadvantages and pass on such disadvantages to their children. They will be in a worse position than the children of those who are not political sufferers for the purpose of taking adequate education, attention etc. because their parents might have languished in any prison or might have been deprived of property. Looked at from that point of view, political sufferer should be an identifiable person who could be recognised as such on certain rational basis. It is, therefore, manifest that a person to be a political sufferer must have suffered in any one of the five ways stated in sub-section (i) to (v) of clause (b).

5. If the expression 'and' in clause (a) is read independently then there was no need for him to suffer at all and mere participation would be enough to make him a political sufferer. That would defeat the rationale behind the rule. It would, therefore, frustrate the intention and purpose of the legislature. The expression 'and' in these circumstances cannot be read disjunctively. It is not possible to hold that clause (a) should be read independently to clause (b). A statute cannot be construed merely with reference to grammar. Statute whenever the language permits must be construed reasonably and rationally to give effect to the intention and purpose of the legislature. The expression 'and' has generally a cumulative effect, requiring the fulfilment of all the conditions that it joins together and it is the antithesis of 'or'. In this connection reference may be made to *A.K. Gopalan v. State of Madras* (1950 SCR 88, 126 : AIR 1950 SC 27). See also the observations of this Court in *Ishwar Singh Bindra v. State of U.P.* ((1969) 1 SCR 219 : AIR 1968 SC 1450).

6. This construction, put by High Court, in our opinion, is logical and reasonable construction. The High Court as mentioned hereinbefore has granted a certificate under Article 133(1)(b) of the Constitution. We find that the question is a simple one and the intention and the purpose of the rule is manifest and in the language, there is no difficulty. The certificate under Article 133(1)(b) of the Constitution, in our opinion, was therefore unwarranted. We, therefore, revoke the certificate and dismiss the appeal summarily under Rule 5-A of Order XV of the Supreme Court Rules, 1966. We, however, make it clear that the appellant, the student in question, is a student of some credit and distinction and has obtained 74% of the marks in his examination. His case should be considered favourably and objectively in the general category for admission.

7. In the facts and circumstances of the case, there will be no order as to costs.

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