

Rajendra Prasad Mathur

Vs

Karnataka University and Another

Vijay Kumar Sharma

Vs

Karnataka University and Another

Nilesh Kumar Malasia

Vs

Karnataka University and Another

Rakesh Jain

Vs

Karnataka University and Another

Rajesh Kumar Mehta

Vs

Karnataka University and Another

Vinod Kumar Jain

Vs

Karnataka University and Another

T. M. Mathur

Vs

Karnataka University and Another

Civil Appeals No. 10610, 10812, 10815, 10816, 10817, 10818 and 10819 of 1983

(CJI P. N. Bhagwati, R. S. PathakJJ)

01.05.1986

JUDGMENT

BHAGWATI, C. J. :-

1. These appeals by special leave are directed against an order passed by a Division Bench of the Karnataka High Court summarily rejecting writ appeals preferred by several students against a common judgment delivered by Justice Rama Jois dismissing the writ petitions filed by them challenging the cancellation of their admission by the Karnataka University. The facts giving rise to these appeals are few and may be briefly stated as follows.

2. R. P. Mathur, the appellant in Civil Appeal No. 10610 of 1983 passed Higher Secondary Examination conducted by the Board of Secondary Education, Rajasthan and applied for admission to the first year of the engineering degree course in Shri Dharmasthala Manjunatheswara College of Engineering and Technology for the academic year 1981-82. Shri Dharmasthala Manjunatheswara College of Engineering and Technology is a private engineering college affiliated to the Karnataka University and admission to the first year of the engineering degree course in this College was, therefore, governed by the Rules for admission made by the Karnataka University. On August 11, 1980, the Vice-Chancellor in exercise of the emergency powers conferred upon him by Section 12 (5) of the Karnataka Universities Act issued an Order prescribing, inter alia, condition of eligibility for admission to the first year of the engineering degree course. This Order made by the Vice-Chancellor was approved by the Academic Council and the Syndicate and it governed admissions to be made to the first year of the engineering degree course in the academic year 1981-82 and subsequent years. The condition of eligibility provided by this Order was as follows :

Candidates shall have passed the two-years Pre-University Examination of the Pre-University Education Board, Bangalore or an examination held by any other Board or University recognised as equivalent to it with English as one of the languages and Physics, Chemistry and Mathematics as optional subjects with the necessary percentage of marks laid down by the University at the time of admission.

A student who has passed B. Sc. Examination with Physics, Chemistry and Mathematics and secured not less than 50 per cent of the aggregate of Physics, Chemistry and Mathematics, is also eligible for admission. However, he cannot claim exemption of any sort.

Now, the Higher Secondary Examination in the State of Rajasthan required only 11 years' schooling. The State of Rajasthan did not follow the pattern of 10+2 where SSLC Examination is held after 10 years' schooling followed by study for a period of two years, whether in school or in college, which is termed as Intermediate course at some places and Pre-University course at others. However, so far as the State of Karnataka is concerned, it followed the pattern of 10+2 and after 10 years' schooling followed by SSLC Examination, it provided for a two-year Pre-University course culminating in an examination held by the Pre-University Education Board. Obviously, therefore, the Higher Secondary School Examination after 11 years' schooling in the State of Rajasthan could not be regarded as equivalent to the examination held by the Pre-University Education Board after 10+2 in the State of Karnataka and this non-equivalence was not seriously disputed on behalf of the appellant. R. P. Mathur was clearly, in the circumstances, not eligible for admission to the engineering degree course. Even so, he was admitted by the Dharmasthala Manjunatheswara College of Engineering and Technology for the academic year 1981-82. He completed the first year and appeared in the examination held in July 1982 but he failed in four subjects and he had, therefore, to take a supplementary examination in January 1983 when he cleared two more subjects and the remaining two subjects were cleared by him in the examination held in June 1983. He also simultaneously appeared in the second year examination in June 1983 but again he failed to clear four subjects and he had to appear in the supplementary examination in December 1983 when he passed in the second class. Whilst he was studying for the second year, his admission was

disapproved by the Karnataka University in a letter dated April 7, 1983 addressed by the Registrar to the Principal of the Dharmasthala Manjunatheswara College of Engineering and Technology. This letter was in the following terms :

The matter has been examined carefully. The two candidates (that is, R. P. Mathur and one Abhay Kumar Jain) have passed the H. S. C. Examination of the H. E. F. Board and H. S. M. Board, Rajasthan which is equivalent to 11 years' schooling. As per our eligibility requirements, a candidate must have passed two-year Pre-University Examination of the Pre-University Examination Board, Bangalore or an examination held by any other Board or University recognised as equivalent to it. As per our eligibility requirement, H. S. C. Examination of 11 years' duration is not considered as equivalent to our two-year Pre-University Examination as the pattern of education in our State is 10 years plus 2 years while it is 11 years' schooling in Rajasthan State. Therefore, the two candidates (1) Shri R. P. Mathur and (2) Shri Abhay Kumar Jain are not eligible for admission to the first year B. E. Course during the year 1981-82 as per our eligibility rules. Candidates may be informed accordingly.

This decision of the Karnataka University was communicated to R. P. Mathur by the Principal of the College. He, thereupon filed Writ Petition No. 7744 of 1983 in the High Court of Karnataka challenging the cancellation of his admission by the Karnataka University.

3. It appears that when the writ petition was admitted by a learned Single Judge of the High Court, an interim Order was made allowing R. P. Mathur to continue his studies in Shri Dharmasthala Manjunatheswara College of Engineering and Technology and it was as a result of this interim Order that R. P. Mathur could appear in the supplementary examination for the first year held in January 1983 and the regular examination for the second year held in June 1983. The writ petition was directed to be heard at an early date and it came up for hearing before Justice Rama Jois sitting as a Single Judge.

4. There were also six other students, namely (1) Vijay Kumar Sharma (2) Nilesh Kumar Malasia (3) Rakesh Jain (4) Rajesh Kumar Mehta (5) Vinod Kumar Jain, and (6) T. M. Mathur appellants in Civil Appeals Nos. 10812 and 10815 to 10819 of 1983 who were admitted to the engineering degree course for the academic year 1982-83 and whose admissions were cancelled by the Karnataka University. Vijay Kumar Sharma, Nilesh Kumar Malasia, Rakesh Jain, Rajesh Kumar Mehta and Vinod Kumar Jain passed the Higher Secondary Examination conducted by the Board of Secondary Education, Rajasthan and thereafter Vijay Kumar Sharma cleared the first year examination of the three-year degree course in B. Sc. of the University of Rajasthan with Physics, Chemistry and Mathematics as optional subjects and the other four, viz., Nilesh Kumar Malasia, Rakesh Jain, Rajesh Kumar Mehta and Vinod Kumar Jain, passed the first year examination of the three-year B. Sc. degree course of Udaipur University with the same three subjects, viz., Physics, Chemistry and Mathematics, as optional subjects. These five students were admitted to the engineering degree course in the S. T. C. Institute of Technology, Ranibennur for the academic year 1982-83. The Karnataka University took the view that since they had not passed the two-year Pre-University Examination of the Pre-University Education Board, Bangalore and neither the Higher Secondary Examination of the Board of Secondary Education, Rajasthan nor the first year B. Sc. Examination of the Rajasthan and Udaipur Universities passed by them was equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore, they were not eligible for admission and accordingly the Karnataka University by its letter dated March 5, 1983 disapproved

of their admission leading to the cancellation of the admission. The course of events followed the same pattern so far as T. M. Mathur was concerned. He also passed the Higher Secondary Examination conducted by the Board of Secondary Education, Rajasthan and thereafter cleared the first year examination of the three-year B. Sc. degree course of the University of Udaipur and on the basis of these qualifications, he was admitted to the engineering degree course by Anjuman Engineering College, Bhatkal for the academic year 1982-83. In his case too, the Karnataka University disapproved of his admission on the ground that he was not eligible for admission to the engineering degree course and in consequence, his admission was cancelled. Vijay Kumar Sharma, Nilesh Kumar Malasia, Rakesh Jain, Rajesh Kumar Mehta, Vinod Kumar Jain and T. M. Mathur, aggrieved by the cancellation of their admission, filed Writ Petitions Nos. 7999/83 to 8003/83 and 9533/83 in the High Court of Karnataka. It appears that in the case of these students also, an interim Order was made by the High Court while admitting the writ petitions, allowing them to continue their studies and complete their engineering course. The record shows that from out of these students, only two, namely, Nilesh Kumar Malasia and T. M. Mathur passed the first year examination of the engineering degree course while the rest failed. It is not known at least it does not appear from the record - as to whether those who failed appeared again in the first year examination and cleared it. The writ petitions filed by these students were placed for hearing along with Writ Petition No. 7744 of 1983 filed by R. P. Mathur. We shall for the sake of convenience refer to the petitioners in all these writ petitions as the appellants.

5. Three contentions in the main were urged on behalf of the appellants before the learned Single Judge. The first contention was that the condition of eligibility for admission to the engineering degree course had not been validly laid down by the Karnataka University and hence the admission of the appellants could not be cancelled on the ground that they did not satisfy the condition of eligibility and were accordingly not entitled to be admitted to the engineering degree course. This contention was negated by the learned Judge who pointed out that the Vice-Chancellor had laid down the condition of eligibility in exercise of his emergency power under Section 12 (5) of the Karnataka Universities Act and his action was approved and confirmed by the Academic Council and the Syndicate of the University. The second contention urged on behalf of the appellants was that at least so far as those appellants were concerned who had passed the B. Sc. first year examination of the University of Rajasthan or Udaipur and were admitted to the engineering degree course on the strength of this qualification, they were eligible for admission even according to the condition of eligibility prescribed by the Karnataka University since the B. Sc. first year examination of the Universities of Rajasthan and Udaipur was equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore. But in answer to this contention it was pointed out on behalf of the respondents that the Academic Council of the Karnataka University had accepted the following recommendation of the Committee set up by it for determining equivalence :

Resolved to recommend to the Academic Council that no part examinations of other Universities outside the State of Karnataka be recognised as equivalent to the corresponding course of this University except the Syndicate Resolution No. 39 of May 26, 1979.

The Academic Council had thus declined to recognise any part examination of another University outside the State of Karnataka as equivalent to the corresponding examination of the Karnataka University and the B. Sc. Part I examination of the Universities of Rajasthan and Udaipur could not, therefore, be regarded as equivalent to the B. Sc. first year examination of the Karnataka University and a fortiori it could not be considered as equivalent to the Pre-University Examination of the Pre-

University Education Board, Bangalore and in any event it was not recognised as such by the Karnataka University. The appellants when faced with this argument were constrained to adopt an extreme position that the condition of eligibility prescribed by the Karnataka University was arbitrary and hence liable to be struck down as invalid. This contention was also rejected by the learned Judge who pointed out that each University has got the power to prescribe conditions of eligibility for admission to various courses in the colleges within its jurisdiction and the condition of eligibility prescribed by the Karnataka University was perfectly valid and since the Karnataka University had not recognised the first year B. Sc. examination of any other University outside the State of Karnataka as equivalent to the Pre-University Examination held by the Pre-University Education Board, Bangalore, the appellants did not satisfy the condition of eligibility and were accordingly not eligible for admission. The appellants also relied on the plea of equitable estoppel against the Karnataka University but that plea was also negated by the learned Judge since admittedly no representation was made by the Karnataka University on the basis of which the appellants could be said to have altered their position. The learned Judge pointed out that the Karnataka University did not make any representation or hold out at any stage that passing of the Higher Secondary Examination of the State of Rajasthan or of the first year B. Sc. examination of the University of Rajasthan or Udaipur would make the appellants eligible for admission to the engineering degree course of the Karnataka University. The appellants lastly submitted that even if they were ineligible for admission, the admission granted to them should not be cancelled because they had been pursuing the course of study in the engineering degree course for over a year and their admission should not be disturbed as otherwise it would work great hardship on them. This submission of the appellants was also rejected by the learned Judge who took the view that since the appellants were ineligible for admission to the engineering degree course of the Karnataka University, any delay in the cancellation of their admission could not convert ineligibility into eligibility and this was not a case of irregular admission where less meritorious candidates were selected in preference to more meritorious candidates but it was a case where candidates who were not eligible at all for admission were admitted. The learned Judge accordingly upheld the cancellation of the admission of the appellants and dismissed the writ petitions. The appellants thereupon filed appeals against the decision of the learned Judge before a Division Bench of the High Court but that Division Bench agreeing with the view taken by the learned Judge dismissed the appeals in limine. The appellants being aggrieved by the order of the Division Bench dismissing their appeals preferred the present appeals with special leave obtained from this Court.

6. The appellants did not contend before us that the condition of eligibility laid down by the Karnataka University was not valid and binding. Indeed they could not possibly raise this contention because the condition of eligibility was laid down by the Vice-Chancellor in exercise of his emergency powers under Section 12 (5) of the Karnataka Universities Act and his action had been confirmed both by the Academic Council and the Syndicate. The appellants also did not rely on the plea of equitable estoppel since it was obvious that the Karnataka University had not made any representation to the appellants that passing of High Secondary Examination in the State of Rajasthan or of first year B. Sc. examination of the University of Rajasthan or Udaipur would be sufficient to make them eligible for admission to the engineering degree course of the Karnataka University and it was not possible to say that the appellants had altered that position relying on any such representation. The only contention urged on behalf of the appellants was that the Higher Secondary Examination of the Board of Secondary Education, Rajasthan or in any event first year B. Sc. Examination of a University of Rajasthan or Udaipur should be regarded as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore and the appellants who had passed the Higher Secondary Examination of the Secondary Education Board, Rajasthan

and in any event such of the appellants who had passed the first year B. Sc. examination of the Universities of Rajasthan and Udaipur satisfied the condition of eligibility prescribed by the Karnataka University and were therefore eligible for admission to the engineering degree course of the Karnataka University. This contention is in our opinion wholly unsustainable and cannot be accepted. In the first place it may be noted that what the condition of eligibility laid down by the Karnataka University requires is that the students seeking admission should have passed the two-year Pre-University Examination of the Pre-University Education Board, Bangalore or an examination held by any other Board or University recognised as equivalent to it. The examination held by any other Board or University which has been passed by the candidate must be recognised by the Karnataka University as equivalent to the two-year Pre-University Examination of the Pre-University Education Board, Bangalore. The equivalence has to be decided by the Karnataka University and it is not a matter of objective assessment or evaluation by the Court. It is for each University to decide the question of equivalence of an examination held by any other Board or University with the examination which primarily constitutes the basis of eligibility. Here in the present case the Karnataka University did not recognise the Higher Secondary Examination held by the Secondary Education Board, Rajasthan as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore. And rightly so because the Higher Secondary Examination of the Secondary Education Board, Rajasthan followed only 11 years' schooling while the Pre-University Examination of the Pre-University Education Board, Bangalore came at the end of 10+2 Course that is 12 years' study. The Karnataka University also did not recognise the first year B. Sc. examination of the Universities of Rajasthan and Udaipur as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore. In fact the Academic Council took the view that first year B. Sc. examination of any University outside the State of Karnataka could not be recognised as equivalent to the first year B. Sc. examination of the Karnataka University and it would therefore seem to follow a fortiori that the first year B. Sc. examination of the Rajasthan or Udaipur University was not regarded by the Karnataka University as equivalent to the Pre-University Examination of the Pre-University

Education Board, Bangalore. It is also evident from the second part of the condition of eligibility prescribed by the Karnataka University that if a student did not fall in the first part he could be eligible under the second part only if he had passed B. Sc. examination with Physics, Chemistry and Mathematics and that mere passing of first year B. Sc. examination would not be enough. There can therefore be no doubt that the appellants were not eligible for admission to the engineering degree course of the Karnataka University and their admission was contrary to the Ordinance prescribing the condition of eligibility.

7. But it was then contended on behalf of the appellants as a last alternative that the action of the Karnataka University in not recognising the Higher Secondary Examination held by the Secondary Education Board, Rajasthan and in any event the first year B. Sc. examination of the Rajasthan and Udaipur Universities as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore was arbitrary and unreasonable. We cannot accede to this contention. It is difficult to appreciate how the Higher Secondary Examination held by the Secondary Education Board, Rajasthan after only 11 years' schooling could be regarded as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore which came as the culmination of a full 12 years' course of study. So also it is difficult to understand how the decision of the Karnataka University not to recognise the first year B. Sc. examination of the Rajasthan and Udaipur Universities as equivalent to the Pre-university Examination of the Pre-University Education Board, Bangalore could be regarded as arbitrary or fanciful. It is for each University to decide the question of equivalence and it would not be right for the Court to sit in judgment over the

decision of the University because it is not a matter on which the Court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the course, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University. Here we find that no material has been placed before the Court on the basis of which the Court could say that the decision of the Karnataka University not to recognise the Higher Secondary Examination of the State of Rajasthan or the first year B. Sc. examination of the Universities of Rajasthan and Udaipur as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore was arbitrary or not based on reasons. We must therefore reject this contention urged on behalf of the appellants.

8. We accordingly endorse the view taken by the learned Judge and affirmed by the Division Bench of the High Court. But the question still remains whether we should allow the appellants to continue their studies in the respective engineering colleges in which they were admitted. It was strenuously pressed upon as on behalf of the appellants that under the orders initially of the learned Judge and thereafter of this Court they have been pursuing their course of study in the respective engineering colleges and their admissions should not now be disturbed because if they are now thrown out after a period of almost four years since their admission their whole future will be blighted. Now it is true that the appellants were not eligible for admission to the engineering degree course and they had no legitimate claim to such admission. But it must be noted that the blame for their wrongful admission must lie more upon the engineering colleges which granted admission than upon the appellants. It is quite possible that the appellants did not know that neither the Higher Secondary Examination of the Secondary Education Board, Rajasthan nor the first year B. Sc. examination of the Rajasthan and Udaipur Universities was recognised as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore. The appellants being young students from Rajasthan might have presumed that since they had passed the first year B. Sc. examination of the Rajasthan or Udaipur University or in any event the Higher Secondary Examination of the Secondary Education Board, Rajasthan they were eligible for admission. The fault lies with the engineering colleges which admitted the appellants because the Principals of these engineering colleges must have known that the appellants were not eligible for admission and yet for the sake of capitation fee in some of the cases they granted admission to the appellants. We do not see why the appellants should suffer for the sins of the managements of these engineering colleges. We would therefore, notwithstanding the view taken by us in this Judgment, allow the appellants to continue their studies in the respective engineering colleges in which they were granted admission. But we do feel that against the erring engineering colleges the Karnataka University should take appropriate action because the managements of these engineering colleges have not only admitted students ineligible for admission but thereby deprived an equal number of eligible students from getting admission to the engineering degree course. We also endorse the directions given by the learned Judge in the penultimate paragraph of his Judgment with a view to preventing admission of ineligible students.

9. We accordingly dismiss these appeals but in the circumstances of the case there will be no order as to costs.

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