



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2023

PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE M.G.S. KAMAL

WRIT APPEAL NO. 722 OF 2023 (EDN-RES)

BETWEEN:

KARNATAKA STATE LAW UNIVERSITY
NAVANAGAR, HUBBALLI
KARNATAKA – 580 025
REP. BY ITS REGISTRAR (EVALUATION)

...APPELLANT

(BY SRI. G.S. KANNUR, SENIOR ADVOCATE FOR
SRI. GIRISHKUMAR R., ADVOCATE)

AND:

SRI. KRISHNA

...RESPONDENT

Digitally
signed by
SUMA B N
Location:
High Court
of
Karnataka



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO a)SET-ASIDE THE ORDER DATED:27/03/2023 PASSED BY THE LEARNED SINGLE JUDGE, HIGH COURT OF KARNATAKA BENGALURU IN W.P.NO.21945/2022.

THIS APPEAL COMING ON FOR PRELIMINARY HEARING, THIS DAY, **M.G.S.KAMAL J.**, DELIVERED THE FOLLOWING:

JUDGMENT

This writ appeal is against the order dated 27.03.2023 passed in W.P.No.21945/2022(EDN-RES) by which the appellant-University has been directed to subject the respondent/petitioner for medical examination and thereafter, subject to result of the medical examination, to conduct semester examination providing objective type of questions to the respondent instead of descriptive type of questions.

2. The above writ petition was filed by respondent/petitioner contending interalia that he is pursuing five years integrated law degree at Vaikunta Baliga Law College. That the respondent is a differently



abled person having 46% of overall impairment affecting both brain and eyes. That after enrolling for law, the respondent was unable to write by hand as such for the I semester exam petitioner utilized the facility of scribe. He was however informed by the college that unless permission was granted by the University, it cannot permit the respondent to take the help of the scribe for examination in future. Accordingly, respondent made a representation to the appellant-University requesting for providing objective questions instead of descriptive questions and to utilize the help of scribe in view of his disability. However, no action was taken on the representation constraining the respondent to file a writ petition in W.P.No.17249/2022 which was disposed of on 07.09.2022 directing the University to consider the grievance of the respondent and pass appropriate orders. However, the appellant partly allowed the representation and rejected the request to provide objective questions instead of descriptive questions. Feeling aggrieved by the same, the above writ petition is filed.



3. Learned Single Judge in the impugned order taking note of the relevant guidelines issued by the Ministry of Social Justice and Empowerment, Department of Empowerment of persons with disabilities (Divyangjan) dated 29.08.2018 which make provision for providing objective questions instead of descriptive questions to the visually impaired, declined to accept the contention of the appellant-University that the provision is applicable only to the students having hearing impairment. Learned Single Judge further noted that under Section 2(r) of the Rights of Persons with Disabilities Act, 2016 'persons with benchmark disability' means person with not less than 40% of specified disability, where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms as certified by the certifying authority. In view of the said provisions and in view of the certificate not produced by the respondent certifying his low vision being more than 40% and subjecting the respondent for examination by the Medical Board concerned, learned



Single Judge directed University to provide objective questions instead of descriptive questions to the respondent for III Semester of LLB examination to be held on 29.03.2023 or suitable extended date for conducting examination to visually impaired student with low vision to the extent of 40% or more. Aggrieved by the said order the appellant-University is before this Court.

4. Sri.G.S.Kannur, learned Senior counsel for the appellant apart from reiterating the grounds urged in the memorandum of appeal also submitted that as per the guidelines alternative objective questions can be provided only for those students who are suffering from hearing impairment and not to persons suffering from any other disabilities. That in the instant case since the respondent is not suffering from hearing impairment and is suffering only from visual impairment and also from mental retardation the benefit of the aforesaid provision cannot be extended. He also submitted that since the respondent suffering from mental retardation objective questions



which requires reasoning and intellectual skill cannot be provided. Thus, he submits this fine distinction has not been considered by the learned Single Judge warranting interference.

5. Heard and perused the records.

6. Though submission is being made on behalf of appellant-University that benefit of guidelines can be extended only to the persons having hearing impairment and not to the person having visual impairment or suffering from mental retardation, the overall object of the guidelines needs to be appreciated which is providing opportunity for all to participate in the main stream education system. There cannot be any strict and stringent distinction on the basis of nature of ailment. The purpose is to facilitate the specially abled persons to participate in the examination within the limits provided under the guidelines subject to required compliance in the nature of obtaining certificates from the competent authorities. Viewed from the said object, learned Single



Judge taking note of the provisions describing persons with disability as provided under Section 2(r) of the Rights of Persons with Disabilities Act, 2016 has directed the appellant-University to subject the respondent for medical examination by Chief Medical Officer/Civil Surgeon/Medical Superintendent of the Government Health Care Institution and only if it is certified that the respondent is suffering from low vision to the extent of 40% or more, to provide objective questions instead of descriptive questions to the respondent in the ensuing examination.

In that view of the matter, we do not see any grounds warranting interference with the impugned order. Accordingly, appeal is dismissed.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE