

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST 2020

PRESENT

THE HON'BLE MRS. JUSTICE B.V. NAGARATHNA

AND

THE HON'BLE MR. JUSTICE RAVI V. HOSMANI

WRIT PETITION No. 9283 OF 2020 (EDN-RES)

BETWEEN:

1. Sadanand,



AND:

University of Agricultural Sciences,
Represented by its Registrar,
G.K.V.K Bangalore – 560 065.

...Respondent

(By Sri. R. Srinivasa Gowda, Advocate)
(Through Video Conference)



This Writ Petition is filed under Article 226 of The Constitution of India, praying to (I) Declare that the proceedings of the online meeting under the chairmanship of Vice Chancellor, UAS, Dharwad, with the Vice Chancellors, Directorate of Education, Registrars, Deans of Farm Universities of Karnataka held on 24.07.2020 as per Annexure – B and the Notification dated 27.07.2020 issued by Registrar of the Respondent university (Annexure-C) and instructions to the students dated 4.8.2020 issued by the Controller of Examinations of the respondent University (Annexure-D) as illegal, void and inoperative. (II) Consequently, forbear the respondent from holding online examinations in utter violation of Regulations 8 and 9 of University of Agricultural Sciences, Bangalore, academic information and regulations governing Under-Graduate, Degree Programmes under Semester System 2018-19 and etc.

This Writ Petition coming on for Orders, this day, **NAGARATHNA J.**, made the following:

ORDER

Petitioners are the students of the respondent-University namely, University of Agricultural Sciences, Bengaluru. They have averred that they have filed this writ petition in public interest for and on behalf of the other students of the respondent-University seeking the following prayers and interim prayer:

"WHEREFORE, the petitioners most respectfully pray that this Hon'ble Court be pleased to:

- (i) Issue a writ, order or direction declaring that the proceedings of the online meeting under the chairmanship of Vice Chancellor, UAS, Dharwad, with the Vice Chancellors, Directorate of Education, Registrars, Deans of Farm Universities of Karnataka held on 24.07.2020 as per Annexure B and the Notification in No. R.AR/Final exams/UG/2020-21 dated 27.07.2020 issued by Registrar of the respondent University (Annexure -C) and Instructions to the students dated 4.8.2020 issued by the Controller of Examinations of the respondent University (Annexure-D) as illegal, void and inoperative.*
- (ii) Consequently, forbear the respondent from holding online examinations in utter violation of Regulations 8 and 9 of University of Agricultural Sciences, Bangalore, Academic Information and Regulations Governing Under-Graduate, Degree Programmes Under Semester System 2018-19; and*
- (iii) Pass such other orders as this Hon'ble Court deems fit in the facts and circumstances of the case, including an order as to costs, in the interest of justice and equity.*

INTERIM PRAYER

The petitioners most respectfully pray, pending disposal of the above writ petition, that this Hon'ble Court be pleased to stay the conduct of online examinations for Undergraduate Degree and Diploma courses in B.Sc.(Agriculture), B.Sc(Agri Marketing) and B.Sc(Agri Engineering) of the respondent University pursuant to the Notification in No. R.AR/Final exams/UG /2020-21 dated 27.07.2020 issued by Registrar of the respondent University (Annexure-C) and also stay the Instructions to students dated 4.8.2020 issued by the Controller of Examinations of the respondent University (Annexure-D), in the interest of justice and equity."

2. We have heard the learned Senior Counsel Prof. Ravivarma Kumar for Smt. Sharada Bai for the petitioners and learned counsel Sri. R. Srinivasa Gowda for the respondent-University and perused the material on record.

3. Learned Senior Counsel appearing for the petitioners submitted that the respondent-University has notified the Semester examinations to be

conducted from 02nd September 2020 up to 18th September 2020. The entire mode and method of examination has been changed from what is found in the Regulations. No doubt, Corona virus COVID-19 pandemic is a factor which has to be taken into account while conducting the examination. But, the same would not be a reason to change the entire format of examination inasmuch as, in the place of offline or physical attendance of the students in the examination, only online examinations are being conducted. That the online examination would be contrary to and a departure from the usual method of conducting examination. This would be a hindrance to the students as, many students of the respondent-University hail from remote and rural areas. They may not have the technological acquaintance to appear in online examination. Further, the supply of electricity in the rural areas is very uncertain at the specific timings

of the examinations. If there is non-supply of electricity, that particular student would not be enabled to appear in an online examination. In this regard, our attention was drawn to the Regulations of the respondent-University with particular reference to Regulations-7, 8 and 9. He contended that the total marks assigned for the offline examination is also not as per Regulation-8.7. Therefore, the very conduct of the examination is contrary to the Regulations. That the Academic Council which is a body entrusted with the responsibility of guiding all academic matters in the University has departed from the usual manner and method of holding the examination as per the Regulations and has decided to conduct online examinations, which is contrary to the Regulations.

Learned Senior Counsel, therefore contended that for the aforesaid reasons, this Court may entertain the writ petition which is filed on behalf of

the entire student community of the respondent-University, which is going to be affected by the ensuing examination. Hence this Court may stay the examinations to be conducted from 02nd September 2020 onwards.

4. *Per contra*, learned counsel appearing for the respondent-University with reference to his statement of objections and objections filed to the application seeking interim order drew our attention to the fact that the Indian Council of Agricultural Research (ICAR) which is an Apex body concerning, *inter-alia*, in the field of Agricultural Sciences has permitted online and offline examination to be conducted depending upon the Regulations owing to the COVID-19 pandemic. He submitted that the students are familiar with the technology. That, safeguards have been provided for students who fail to appear in the examinations or who have missed

attending the examinations owing to medical reasons. Also an opportunity is given to such students to make up, if their performance in the examination is not good. Such students can reappear in the examinations, when they have not scored well.

He further submitted that possibly as a one-time measure, the University may permit the students to be promoted to the next semester, even if they have not scored well on account of and owing to the reason of COVID-19 pandemic. He submitted that this arrangement is made only for the intermediate semester examination and not for final examination.

5. In this regard, learned counsel further submitted that having regard to the fact that BBMP and State Government have requisitioned hostel rooms of the respondent-University for the purpose of converting them as a quarantine center for COVID-19 patients and for those persons who have been tested

positive. Thus, there are no rooms available in the hostel for the students. It is on account of that reason, that the respondent-University has, after due deliberation, decided to conduct the examinations online and as an exception to the normal method and format of examination. He submitted that students of the respondent-University who hail from various parts of the State cannot be asked to appear personally for the examination from 02nd September 2020 to 18th September 2020, as no hostel accommodation is provided to them and if they reside in various parts of the city during the period of examination, they would be exposed to more risk; rather it would be in the interest of the safety of the students that they attend the online examination as all safeguards for the students have been made by the University. Further, this Court may issue further safeguards or directions as a departure from the usual method and manner of

holding the examination on account of COVID-19 pandemic.

He submitted that the students have already appeared in the online mock examination which was held and more than 90% have appeared and at the instance of these five petitioners, the schedule of the examination should not be interfered. He contended that shortly the Academic Year would commence i.e., from October 2020 and the students as well as the respondent-University would be in a position to commence the Academic Year on time provided there is no disruption of the schedule of the examination to be conducted for the students in the comfort of their homes.

6. We have heard the learned Senior Counsel as well as learned counsel for the respondent-University at length.

7. It is not necessary to reiterate the said submissions as we have recorded their submissions in detail. We note that the ensuing examination of the respondent-University is scheduled from 02nd September 2020 to 18th September 2020. Since March -2020, the students have been attending classes online and their attendance has also been marked in that manner. The University is not conducting any final examination online. On the other hand, the schedule of the examination is for the intermediate semesters so that the students who are away from the University and who are residing in their respective places and houses scattered all over the State and who have attended the classes online would be given an opportunity to appear in the online examination. No doubt, till date the University has only conducted offline examinations by physical appearance of the students in the University.

8. At this stage, this Court needs to take judicial notice of the nature of the current pandemic. Corona virus COVID-19 is such that it necessitates not only wearing of a mask but also social distancing, use of sanitizers and such other precautions while in congregation. If, on the other hand, a person or a student is by himself or herself, wearing of the mask is not necessitated and so also the requirement of social distancing would not arise. The risk of congregation in the University would arise if the students have to attend examinations physically in the University. Then, greater safeguards would have to be taken and many a times, it is noted that such safeguards cannot be taken or maintained while conducting the examination even by the students themselves. Consequently, all stakeholders would be exposed to the risk of the disease including the students. It is in the aforesaid context that the

respondent-University has, in a truncated format, scheduled the examination online so that the students of the respondent-University who are from the different parts of the State could appear in the examinations from the comfort of their homes or any other place where there is availability of the technology to appear online. Hence, we find that the departure from the usual mode and method of conducting examination for this semester cannot be faulted with or held to be unreasonable or against the interest of the students or the other stakeholders. The examinations are being conducted in September-2020 so that students would commence the new Academic year with effect from October-2020.

9. However, the concerns expressed by the learned Senior Counsel appearing for the petitioners would have to be taken note of. Firstly, he submitted that if the students are in rural areas or even in urban

areas, there is every possibility of disruption of electricity which may result in causing a hindrance for the student to appear in the online examination. In such a case, the students would miss the examination. In this regard, our attention has been drawn to Annexure-F wherein at Clause-16, it is stated as under:

"16. No missed examination will be conducted for any of the online examinations scheduled from 2nd to 18th Sept. 2020 as these are the simplified version of examinations being scheduled due to extraordinary situations. If any student misses the online examination(s) deliberately, they have to fulfill all the requirements of a particular course as and when such courses are offered in subsequent academic years. However, on genuine medical grounds, the University will examine requests received in this regard."

On a reading of the same, it is noted that if a student misses the online examination deliberately, then he or she would have to fulfill all requirements of the course as and when the course is offered in

subsequent Academic Year. However, if there are genuine medical grounds, the University would examine the request in that regard. To this, we may also add that if there are genuine grounds, such as not being able to appear in the examination owing to disruption in electricity supply or any other genuine ground which we may not specify or list out presently, it is for the student to make out a case before the University along with the requisite documents and the University in appropriate cases permit such student to appear in the examination when the same is missed. Further, such students who have missed the examination should be permitted to attend the classes to be held in the next semester, as the reasons for their missing the exam would be genuine and not on deliberate.

10. Further, if a student who appeared in the online examinations desires to improve his

performance, then such a student also must be given an opportunity to improve his performance. In what method the student would be permitted to improve his performance, whether by online method or by physical appearance of the student in an exam, cannot be speculated at this stage as it is for the respondent-University to take a decision as and when the need arises.

11. In the circumstances, we find that the grievance ventilated by the learned Senior Counsel have been considered after hearing the learned counsel for the respondent and hence we find that the interest of the students and the other stakeholders are taken care of by, *inter-alia*, what we have observed above. The same shall be a one-time measure owing to the current COVID-19 pandemic.

12. Before parting with this case, we would like to observe that there are about 2614 students who would be appearing as regular students and 200 students who would appear for the supplementary examination to be commenced from 02nd September 2020 onwards. The petitioners herein are also such students who are to appear in the regular examination. The petitioners have not approached this Court in their individual capacity. It is averred and stated in the writ petition that the petitioners have approached this Court in the nature of public interest litigation and the same has been listed before this Bench as a public interest litigation. Normally, when the petitioner/petitioners who file a public interest litigation are also the beneficiary/beneficiaries of the orders to be passed in a public interest litigation, then it would not be entertained as a public interest litigation but would be treated as a private interest

litigation. However, in the instant case, since a Coordinate Bench of this Court by order dated 20.08.2020 has entertained the writ petition and issued notice to the respondent and thereafter the matter has been listed before this Bench and bearing in mind the interest of the students of the respondent-University and having regard to the observations which are made above and also the fact that the ensuing examinations would be commencing day after tomorrow (02.09.2020), the issue regarding maintainability of this writ petition as a public interest litigation has been kept aside. However, this order shall not be treated as a precedent.

13. In the circumstances, the writ petition is disposed with the aforesaid observations we have made.

14. It is made clear that the stakeholders, including the students, shall make every endeavour to ensure that the examinations, as determined by the respondent-University, shall be conducted in a smooth manner from 02nd September 2020, so that the students are able to move ahead in their academic career.

In view of the disposal of the writ petition, all the interlocutory applications stand disposed.

**Sd/-
JUDGE**

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JUDGE**

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