



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF JUNE, 2023

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.11724 OF 2023 (EDN-RES)

BETWEEN:

ADITY DEEPAK KUMAR

...PETITIONER

(BY SRI. BOLA VEDVYAS SHENOY, ADVOCATE)

AND:

Digitally
signed by
CHAITHRA A
Location:
HIGH
COURT OF
KARNATAKA

1. STATE OF KARNATAKA
THE SECRETARY
KARNATAKA EDUCATION DEPARTMENT
(HIGHER EDUCATION)
VIDHANA SOUDHA
BENGALURU - 560001
2. ASSISTANT DIRECTOR
OFFICE OF THE DIRECTORATE
DIRECTOR OF TECHNICAL EDUCATION
VIDHANA SOUDHA
BENGALURU - 560001
3. KARNATAKA EXAMINATIONS AUTHORITY
REPRESENTED BY THE



EXECUTIVE DIRECTOR
18TH CROSS, SAMPIGE ROAD
MALLESHWARAM
BENGALURU - 560 003

4. VISVESHVARAYA TECHNOLOGICAL UNIVERSITY
REP. BY ITS REGISTRAR
SANTIBATAWADA ROAD
BELGAUM-590 014
5. THE REGIONAL DIRECTOR
BANGALORE REGION
VISVESWARAYA TECHNOLOGICAL UNIVERSITY
BENGALURU
6. THE PRINCIPAL
ACADEMY FOR TECHNICAL AND
MANAGEMENT EXCELLENCE
13TH KM, MYSORE-BANNUR ROAD
MYSORE-570 007
7. DEPARTMENT OF MINORITY AND BACKWARD
WELFARE DEPARTMENT,
REPRESENTED BY DISTRICT COMMISSIONER
NO.43, 5TH CROSS, 2ND MAIN ROAD
NEAR RAILWAY GATE (ABOVE
THE ALANKAR TIFFANIES)
JAYANAGAR
MYSORE-570 007

...RESPONDENTS

(BY SMT.KAVITHA H.C., AGA FOR R.1, 2 AND 7;
SRI.N.K.RAMESH, ADVOCATE FOR R.2 & R.3;
SRI.AMBARISH, ADVOCATE FOR
SRI.SANTHOSH S.NAGARALE, ADVOCATE FOR R.4 AND R.5;
SRI.NAVEEN G.S., ADVOCATE FOR R.6)



THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-6 COLLEGE TO RETURN THE ORIGINAL 8TH SEMESTER MARKS CARD, TRANSFER CERTIFICATE, CONVOCATION CERTIFICATE AND DEGREE CERTIFICATE OF THE PETITIONER AND ETC.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The captioned writ petition is filed by the petitioner feeling aggrieved by the highhandedness of respondent No.6 - College, which has appropriated the scholarship amount towards tuition fees and therefore, the present captioned writ petition is filed seeking a mandamus to direct respondent No.6 - College to handover 8th Semester Marks card, Transfer Certificate, Convocation Certificate and Degree Certificate of the petitioner.

2. The petitioner has also sought a mandamus to direct respondent No.6 - College to refund an amount of Rs.91,600/- collected from petitioner towards tuition fees for the academic year.



3. The petitioner was selected for B.E. Course in Electrical and Electronics Engineering in respondent No.6 - college and she got admitted to the course through Common Entrance Test (CET) conducted by respondent No.3 - University. She was allotted with tuition fees of Rs.Zero under category - 1G i.e., "Supernumerary Quota". Therefore, petitioner claimed that she was only required to pay other fees and was not required to pay tuition fees. The petitioner on account of her academic performance was also granted scholarship. When petitioner went to the said college to receive scholarship amount, she was informed that the said scholarship is adjusted towards tuition fees.

4. The grievance of the petitioner is that she was allotted a seat under the Category of "Supernumerary Quota", where students are totally exempted from paying tuition fees. Respondent No.6 has highhandedly collected tuition fees and has also adjusted the scholarship granted



by respondent No.7. Therefore, the petitioner is before this Court.

5. Heard learned counsel appearing for the petitioner and learned counsel appearing for respondent No.6 - College and learned AGA appearing for respondent Nos.1, 2 and 7.

6. The short point that needs consideration at the hands of this Court is:

As to whether respondent No.6 - College has acted highhandedly and has illegally collected the tuition fees when petitioner was admittedly allotted a seat in respondent No.6 - College under the category of "Supernumerary Quota"?

7. Before I advert to the facts of the case, let me examine the object in the amendment brought under Articles 15(6) and 16(6) in 2019. The Articles 15(6) and 16(6) have been inserted in the Constitution, vide



Constitution (One Hundred and Third Amendment) Act, 2019. This enables the State to provide the benefits of reservation on preferential basis to the Economically Weaker Sections (EWSs) in civil posts and services in the Government of India as well as admission in Educational Institutions.

8. 2019 Amendment was introduced and it was intended for social upliftment of the economically weaker sections. The Legislatures thought introduction of reservation for economically weaker sections is absolutely necessary to address the systematic inequality faced by the weaker sections. It is probably in this background to provide a level playing field for the economically weaker section as they cannot compete with those who for centuries have had access to resources and means, amendment was suggested.

9. The Hon'ble Apex Court by a 3:2 verdict in ***JANHIT ABHIYAN VS UNION OF INDIA*** in Writ Petition (Civil) No(S).55 of 2019, upheld the validity of the 103rd



constitutional amendment carried out to provide legal sanction carve out 10% reservation for the economically weaker sections from unreserved classes for admission in educational institutions. The Hon'ble Apex Court by upholding the EWS reservation policy, has given its imprimatur to the idea that reservations can be provided to accord protection beyond caste-identities and can be carved out for the economically vulnerable sections of people. This has expanded the logic of affirmative action in India as, since independence, reservation policy has been perceived as an extreme tool for protection of only the historically marginalized caste-based communities to mitigate the social exploitation, discrimination, and backwardness of the vulnerable caste groups.

10. If Unaided Private Engineering Colleges having formed an association have entered into consensual agreement with the State Government and having resolved to extend the same gestures by way of scholarship to socially and economically weaker sections,



the action of respondent No.6 – College is highly questionable. If the association has accepted the proposal and has agreed to provide an extend freeships and scholarships by way of free concessions, respondent No.6 – Institution would not have insisted the petitioner to deposit the tuition fees.

11. The implementation of the supernumerary quota in educational institutions aims to foster inclusivity and provide equal opportunities to underrepresented groups. However, a disturbing trend has emerged where some educational institutions engage in wrongful conduct by charging fees to students admitted through the supernumerary quota. The case on hand clearly depicts unethical nature of this practice. The materials on record clearly sheds light on the injustices. Respondent No.6 - College has perpetuated against the petitioner, who was selected under Supernumerary Quota. The highhanded action of respondent No.6 – college has detrimental effects on accessibility, social equality, and the overall spirit of



affirmative action. Charging fees to students admitted through the supernumerary quota directly contradicts the principles of affirmative action by way of amendment to Articles 15(6) and 16(6). Charging fees to these students disproportionately impacts these communities, making it even more challenging for them to access higher education. Respondent No.6- College by charging fees has violated legal mandate and has breached ethical obligations to provide equitable opportunities to underrepresented groups.

12. If petitioner is allotted a supernumerary seat by the competent Authority, which involves a meticulous examination of applicants' background and qualifications, which may include certificates, official records and in some cases, testimonials verifying their belonging to the designated category, respondent No.6 – College cannot demand tuition fees. The college has lost sight of the fact that supernumerary quota is a necessary step towards



rectifying historical injustices and fostering a more diverse and inclusive society.

13. On perusal of Annexure-B, it is clearly evident that the petitioner was allotted a seat under the category of "Supernumerary Quota" as the income of the petitioner's parents was found to be Rs.42,466/-. Therefore, petitioner possessed eligibility to pursue BE Course under Category "Supernumerary Quota". Though respondent No.3 has allotted the CET seat under category of "Supernumerary Quota", respondent No.6 - college has highhandedly collected tuition fees. Respondent No.6 - college does not stop here and it has gone to the extent of adjusting the scholarship amount towards tuition fees. The highhandedness and arbitrariness and the manner in which the petitioner is humiliated and harassed is quite tangible in the present case on hand. Therefore, apart from issuing a mandamus to respondent No.6, this Court is of the view that this is a fit case, wherein respondent No.4 needs to look into the matter and take appropriate



action against respondent No.6 - College for gross unjust practice.

14. The petitioner even in earlier round of litigation had to approach the Writ Court seeking direction to permit her to appear for examinations. Therefore, the materials on record clearly demonstrate that wrongful conduct of respondent No.6 – College, which is found to be guilty of charging fees for students admitted through Supernumerary Quota. By imposing fees, respondent No.6 – Institution has perpetuated systematic discrimination and has denied the opportunities to which she was legally entitled to receive.

15. Therefore, for the reasons stated supra, I pass the following;

ORDER

(i) The writ petition is ***allowed.***



- (ii) Respondent No.6 - College is hereby directed to forthwith return original 8th Semester Marks Card, Transfer Certificate, Convocation Certificate and Degree Certificate of the petitioner within a period of two weeks from the date of receipt of copy of this order.

- (iii) Respondent No.6 - College is hereby directed to refund an amount of Rs.91,600/- with interest at the rate of 9% p.a. from the date of depositing the amount by the petitioner till realization.

- (iv) Respondent No.4 shall issue a show cause notice against respondent No.6 - College for having illegally collected the tuition fees when the petitioner admittedly was allotted a seat under special Category "Supernumerary Quota" and thereafter, proceed to take appropriate action against respondent No.6 - College.



- (v) Respondent No.6 - College shall also pay a sum of Rs.1,00,000/- by way of separate demand draft for having compelled the poor girl in knocking the doors of the Writ Court.

Sd/-
JUDGE