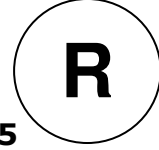




IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH



DATED THIS THE 25TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ
WRIT PETITION NO. 104890 OF 2024 (EDN-EX)

BETWEEN:

RAHUL H.M.,
AGE: 33 YEARS, OCC: STUDENT,
R/O. #143, B. HOSAHALLO,
SARJAPUR CIRLCE, TALUK: ANEKAL.

...PETITIONER

(BY MRS. GAYATRI S.R. ADVOCATE FOR
SRI. MALLIKARJUNSWAMY B. HIEMATH, ADVOCATE)

AND:

1. REGISTRAR (EVALUATION),
KARNATAKA STATE LAW UNIVERSITY,
NAVANAGAR, HUBBALLI-580025.
2. THE PRINCIPAL,
SRI. KENGAL HANUMANTHAIAH LAW COLLEGE,
OORUGAM K.G.F. HUBBALLI-580025.

...RESPONDENTS

(BY SRI. K.L. PATIL, ADVOCATE FOR R1;
R2-IS SERVED)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, OR ORDER OR DIRECTION, QUASHING ORDER NO.KSLU/MPC/DEC-2023 (MARCH/APRIL)/593 DATED 01.07.2024 PASSED BY THE RESPONDENT NO.1 PRODUCED AS ANNEXURE-D AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. The petitioner is before this Court seeking for the following reliefs:

- (a) Issue writ of Certiorari or any other appropriate writ, or order or direction, quashing order No.KSLU/MPC/Dec-2023 (March/April)/593 dated 01.07.2024 passed by the Respondent No.1 produced as Annexure-D.*
- (b) Issue such other writ, orders or direction as this Hon'ble court deems fit in the facts and circumstances of the case in the interest of justice and equity.*

2. Petitioner was the first year LLB student studying in respondent No.2-College. Examinations have been conducted for the first semester for legal method in the month of March/April, 2024. On 12/4/2024, when the petitioner was writing his examination for the subject legal method, it is alleged that the Flying Squad entered the examination hall and confiscated the examination papers and hall ticket of the petitioner and did not allow the petitioner to write the exam.



3. The petitioner contended that he had not committed any malpractice, he alleges that the Flying Squad and the officers of the college had forcefully asked the petitioner to leave the examination hall and took a signature on certain papers without explaining the contents thereof or permitting the petitioner to read the contents thereof.
4. On 20/6/2023, the petitioner was issued notice to appear before the Malpractice Committee on 29/5/2024, when the petitioner appeared before the 1st respondent-Malpractice Committee, it is alleged that the said committee without conducting any kind of enquiry directed the petitioner and other students to sign some papers, which they were not even allowed to go through. The petitioner signed the said papers, subsequently the petitioner was shocked to note that vide order dated 01.07.2024 the petitioner was not allowed to take the next available examination besides forfeiting his performance in the



examination, in which, he is alleged to have committed malpractice and further that he should not be allowed to keep the term for the next higher semester/year or pursue the any other alternative course till the above punishment is completed. It is challenging said order dated 01.07.2024, the petitioner is before this Court.

5. Miss. Gayathri S.R., learned counsel for the petitioner would submit that the respondent-University has also the Malpractice Committee have acted in a high handed manner and have prevailed upon the petitioner to sign blank documents, without permitting the petitioner to read the same or furnishing copy thereof and on that basis action is taken against the petitioner. She relies on the Notification dated 19.07.2024 issued by the examination section of the Karnataka State Law University, Hubballi (for short, 'KSLU') to contend that the ordinance governing malpractice has not



been complied with by the respondents. The detailed procedure which has been prescribed therein has not been followed and without doing so, punishment has been imposed on the petitioner.

6. She also relies upon a decision of the coordinate bench of this Court dated 28.08.2023 passed in Writ Petition No.103725/2022, more particularly para No.10 thereof, which is reproduced hereunder for easy reference:

"10. If the petitioner-student knew the consequences of what she is signing perhaps she would not have, as it is ostensible that she was asked to sign on the dotted lines, where the punishment is also indicated The punishment is indicated in terms of the recommendation of the Malpractice Committee, it is an admitted fact that the recommendation of the Malpractice Committee was never ever communicated to the petitioner, it a student did not know the consequence of what she is doing i.e., signing on pre-typed matter, it can hardly be said that it is in consonance with law, as a consequence of signing on the document is not made known the petitioner. The petitioner was still a student of 3rd Semester of Law.

7. She submits that the coordinate bench of this Court has come to a categorical conclusion that if a signature of a student where to be taken on a pre-



typed matter, the same could not be said to be an acceptance of guilt on part of the concerned student.

8. She relies on the second portion of para 12 of the said Judgment, which is extracted below for easy reference :

"The ordinance depicts elaborate procedure to be followed for debarring a student on account their malpractice. The procedure as stipulated, if pitted on the facts narrated hereinabove, it would become unmistakably clear that the student is not afforded any opportunity, as is provided under the aforesaid ordinance, which deals with conducting enquiry and reporting. If the student is not afforded all the opportunity that is to be afforded in terms of the ordinance, the resultant order which debars the petitioner would become unsustainable, and the unsustainability would lead to its obliteration. Learned counsel for the respondent who has laid much emphasis on the admission of the student in the teeth of the aforesaid fact is untenable."

9. She submits that the elaborate procedure prescribed under the aforesaid ordinance has not been followed. The co-ordinate bench has come to a conclusion that no punishment as that done in the present case could have been imposed on both the above grounds. She submits that the petition is required to be allowed and the prayers sought for be granted.



10. Learned counsel Sri K.L.Patil appearing for respondent No.1 would submit that the entire process has been followed, notice had been issued to the petitioner through the college has admittedly being served, the petitioner has admittedly appeared before the disciplinary committee. The disciplinary committee having enquired with petitioner, the petitioner has categorically accepted the allegations and there is acceptance that micro xerox material was available with the student. Thus he submits that when there is a categorical admission by the student himself of the allegations made, there will be no requirement of further enquiry. Relying on the admission made by the student, the University and the Malpractice Committee has made necessary recommendation and in that background, he submits that the requirement of law and procedure have been complied with.



11. Heard learned counsel for the petitioner and learned counsel for respondent No.1 and perused the papers.
12. There are several matters of such malpractices, which come up before this Court and it is found in most of the cases that the University relies upon alleged confession on part of the students and in most of these cases, a preformatted proceedings detailing out the details of the student, a brief description of the enquiry proceedings as also the punishment imposed are all found on the same sheet of paper and these are alleged to be signed by the students of their own free will and volition. This so called confession is not on a paper or not in the handwriting of the student, but is typed by the Malpractice Committee, on which, the student has signed or is asked to sign.
13. These aspects touching upon the future career of a student are required to be dealt with by the University in a transparent manner. So that on the



face of records, it would be seen and ascertained that the necessary procedures have been followed, the principles of natural justice as also the procedure prescribed under relevant ordinance are complied with.

14. In the present case, the procedure which has been followed does not inspire any confidence and as held by the coordinate bench of this Court in the W.P.No.103725/2022, merely signing on a dotted line or in the place denoted for signature of the candidate, in the punishment order or in the proceedings of the Malpractice Committee, in my considered opinion, would not comply with the requirements of the ordinance.
15. The aspect of malpractices in examination is also a very serious issue, inasmuch as if some of the candidates were to resort to any malpractice, they would derive undue benefit which they would not be entitled to and this being at the cost of the other



students, who have followed the applicable rules. In my considered opinion, the aspect of malpractice in an examination not only is a issue in person as regards the candidate, but is an issue in rem as regards all the candidates appearing in the examination. No student can or should be permitted to take undue advantage of any malpractice at the cost of the other students have taken up the examination.

16. Today in the hyper competitive environment, which is in existence in all fields of education and more often than not it is only on the basis of marks, which are secured that future education could be pursued by a student. Since it is those marks which would be taken into consideration for applying and being entitled for a seat, these aspects have far reaching implications.
17. Furthermore, when during the course of interviews for employment or the like, it is the marks which are



secured in the examination which are also looked into. In most cases, there being cut off marks prescribed for either admission for further education or for employment.

18. In that view of the matter, I am of the considered opinion that the General Directions would have to be issued to the University to safeguard the sanctity of examination, so as to make available a level playing field for all students, the University would have to formulate necessary guidelines and or Standard operating procedure in that regards, while doing so the following amongst other things can be taken into consideration. As such the following General Directions are issued:

18.1. Conduct of examination,

- 18.1.1. The process of examination itself would have to be conducted in a transparent manner and towards this end the University would have to make use of the



available new technologies so as to establish such transparency.

18.1.2. One of the modes could be use of closed Circuit Television (CCTV) in all the examination halls, recording the entire process of examination so as to ascertain if indeed any malpractice has been committed by any student or not. It is needless to say that these CCTV cameras would have to be of sufficient high resolution covering the entire examination hall and the examination centre, the video recording thereof is to be on a real time basis uploaded to a server so that there is no manipulation of the said recording.

18.1.3. In the event of any allegations being made against any particular student of malpractice, this video recording could be used as evidence either to prove such



malpractice or to disprove the allegation of malpractice.

18.2. Invigilators : Invigilators would have to be provided with high resolution body worn cameras so that their movement in the examination hall or the examination centre is also recorded on a real time basis and uploaded to a server to be verified when allegations are made.

18.3. Jammers: It would be required for jammers to be installed at the examination hall and the centre so that any communication to and from the examination hall by any student does not take place by using radio frequency, microwaves and or mobile phones.

18.4. Flying Squads: In the event of any Flying Squad visiting the examination hall and centre, the officials of the Flying Squad to also be provided with high resolution body worn



cameras, which would record their progress and their conduct and progress in the examination centre and examination hall. These videos are also to be uploaded on a real time basis to the server so that the same cannot be manipulated.

18.5. Malpractice Proceedings: Proceedings if initiated against a student on account of malpractice. notice to be served to the student detailing out the allegations by way of email. The email ID of the students having been secured by the College and University at the time of admission itself and the said email ID constituting valid official email ID for purpose of communication between the College and or the University on the one hand and the student on the other.

18.6. The statements of the students to be video recorded and uploaded on the server on a real time basis so that there is no manipulation.



- 18.7.** The proceedings before the Malpractice Committee to be also video recorded in order to ascertain, if the student has been forced to sign any document and or the same is voluntarily done.
- 18.8.** The above recordings and processing of the recordings to be in terms of Section 105 of the Bharatiya Nagrik Suraksha Sanhita, 2023 and such other provisions as may be applicable there too.
19. The Vice Chancellor and Registrar of the Karnataka State Law University to formulate necessary Rules in relation to the above and issue the same making it applicable to all colleges coming within the jurisdiction or affiliated to the said University and for the above to be implemented in a time bound manner.
20. In the present case in view of my findings that the proceedings before the Malpractice Committee does



not inspire confidence. The Malpractice Committee would have to be directed to redo the entire process by complying with the requirements of the ordinance issued under Section 48(1)(d) of the KSLU Act, 2009.

Hence, I pass the following order:

ORDER

- (i) Petition is allowed.
- (ii) A writ of certiorari is issued. The impugned order No.KSLU/MPC/Dec-2023 (March/April)/593 dated 01.07.2024 passed by the 1st respondent vide Annexure-D is hereby quashed.
- (iii) Matter is remitted to the Malpractices Committee to redo the process of enquiry in accordance with the Ordinance Governing Malpractice by Candidates Appearing in Examination and Officials/Supervisory Staff, Punishment and Procedure under Section



48(1)(d) of Karnataka State Law University Act, 2009.

- (iv) It is needless to say that in the event of Malpractice Committee exonerating the petitioner, the results of the petitioner would have to be released.
- (v) Since the examinations for the current semester are going on, the petitioner is permitted to take up those examinations subject to the result of Malpractice Committee.
- (vi) The respondent No.1 shall collect the necessary fees and issue necessary hall ticket.
- (vii) The learned counsel for the petitioner submits that necessary payment of fees and cause an application through respondent No. 2/College to the University by 4 pm today, which will be immediately



considered by the University and an order passed by 6:00 pm.

- (viii) The permission to the petitioner to take up the examination is subject to compliance by the petitioner of all other applicable rules.
- (ix) Counsel for Respondent No.1 is directed to inform the University about above order and act as per the directions dictated during the Court proceedings without insisting on a copy of the order let alone a certified copy thereof.
- (x) Re-list on 24.03.2025 for reporting compliance with the above General Directions by the Registrar, Karnataka State Law University.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**