

IN THE HIGH COURT OF KARNATAKA AT BANGALORE**DATED THIS THE 13th DAY OF JUNE, 2008****BEFORE****THE HON'BLE MR.JUSTICE B.S.PATIL****WRIT PETITION NO.7648/2007 (EDN)****BETWEEN:**

1. Swaroop Komal.N.
D/o Narasimha Swamy,
Aged about 22 years,
Residing at No.196/1,
Abhishek Apartments,
Margosa Road, Malleshwaram,
Bangalore-560 055.
 2. Aswathi.M.C.
D/o P.Satheesh Kumar,
Aged about 21 years,
Residing at No.9, Govt. School Road,
Chikka Banasawadi,
Bangalore.
- ... PETITIONERS**

(By Sri.H.C.Shivaramu, Adv.)**AND:**

1. The Registrar,
Bangalore University,
Dr.Ambedkar Veedhi,
Bangalore-560 001.
2. The Registrar (Evaluation),
Bangalore University,
Dr.Ambedkar Veedhi,
Bangalore-560 001.
3. The Principal,
St.George College of Management,

Science and Nursing,
Banasawadi, OMBR Layout,
Bangalore.

... RESPONDENTS

(By Sri.A.R.Desai, Adv. for R1 and 2,
Sri.Krishna Dixit, Adv for R3)

This petition is filed under Articles 226 & 227 of the Constitution of India praying to direct the respondents to issue necessary admissions ticket to the petitioners to take up their theory examination of 6th semester of B.Sc. (B.T.) schedule to commence from 01.06.2007 or to any other date that may postponed or fixed by the respondents and further direct the R3 to permit the petitioners to appear and take up the practical examination of the 6th semester of B.Sc., property (B.T.) schedule to commence from 11.05.2007 or to any other date it may be postponed and etc.,

This petition coming on for preliminary hearing in 'B' group, this day, the Court made the following:

ORDER

1. Petitioners 1 and 2 are students studying in the 6th semester in B.Sc. Bio-Technology in the 3rd respondent-College. They were admitted for the course during the academic year 2004-2005. The course consists of 6 semesters. When the petitioners were required to take the 6th semester examination which was scheduled to be held with effect from 11.05.2007 they were not permitted to take up the examination on the ground that there was shortage of attendance. At that stage, petitioners approached this Court and filed this writ petition



seeking a direction to the respondents to issue necessary admission ticket to enable them to take theory examination of the 6th semester which was scheduled to commence with effect from 01.06.2007 and as also the practical examinations which were scheduled to commence from 11.05.2007.

2. This Court on 10.05.2007 issued an interim direction to the respondents 'to permit the petitioners to appear and take up the examinations scheduled to commence from 11.05.2007 for the 6th semester of B.Sc. Bio. Technology Course on condition that the results shall be announced only after the disposal of this writ petition'. By virtue of the interim order passed, the petitioners have taken their examinations and their results have not been announced.

3. It is the case of the petitioners that they have put in requisite percentage of attendance and that the 3rd respondent-College has illegally denied permission to appear for the examination. It is urged in paragraph 6 and 7 of the Writ Petition that the 1st petitioner had developed some dust allergy. In that connection she used to be hospitalised and was under treatment for few days for which an intimation was given to the 3rd respondent to consider her absence as leave. So far as the



2nd petitioner is concerned, it is asserted that she has never missed any class in her entire course and was very prompt and punctual in attending the classes. Allegations are made in the writ petition against the 3rd respondent contending inter alia that intentionally and unlawfully the petitioners were singled out for hostile treatment for extraneous reasons. It is also alleged that as the petitioners did not yield to the practice of collecting amounts as fine towards shortage of attendance permission was refused to the petitioners to appear for the examination.

4. The respondent-University as also the 3rd respondent-College have filed their objections. The respondent-College has contended that pursuant to the UGC Regulations regarding the Minimum Standards of Instruction for the Grant of Degree through Formal Education minimum number of lectures, tutorials, seminars, practicals etc. which a student shall be required to attend before being eligible to appear for the examinations, is prescribed by the University which on an average shall not be less than 75% of the total number of lectures, tutorials, seminars, practicals etc., The University has also issued a Circular dated 03.05.2007 providing for grant of marks ranging from 1 to 5 for attending the classes and



obtaining and putting in attendance over and above 75%. The College has also produced Annexure-R1 attendance extract to disclose the percentage of attendance put in by both the petitioners. It is contended that both the students have put in 26.5% and 23.4% of attendance in the 6th semester. Reliance is also placed on the letters written by the petitioners-students vide Annexure-R7 and R8 dated 29.01.2007 addressed to the Principal seeking permission to attend the classes assuring that they will put in requisite percentage of attendance.

5. Learned counsel for the petitioners contends that the students were not informed by the Principal about the shortage of attendance and it was only when they were required to take the examination permission was refused. He further contends that if the petitioners had not put in required percentage of attendance, the College ought not to have collected the examination fee. Counsel has further contended that the College has illegally denied attendance to the petitioners though they have in fact attended the classes.

6. Counsel appearing for the respondent-College taking me through the statement of objections strongly refutes the allegations made against the institution and asserts that the



College has taken action consistent with the Rules and Regulations regarding the requisite percentage of attendance which the petitioners were required to put in. He submits that the petitioners who have fallen grossly short of the required attendance have been denied permission to attend the classes in terms of the prevailing regulations. Learned counsel for the respondent-University also resists the claim made by the petitioners and the relief sought by them.

7. Having heard the learned counsel for the parties and on careful perusal of the materials on record, the question that requires consideration is:

"Whether the petitioners were eligible and entitled to take the examination having put in minimum percentage of attendance and whether the results of the examination that they have taken as per the interim order has to be announced?"

8. Though allegations are made by the petitioners stating that the College has not given attendance to the petitioners although they had regularly attended the classes, no material is placed before the Court to show that the petitioners had in fact made any such grievance before the competent authorities when the attendance was denied to them. During the course of arguments, counsel for the petitioners submits that in fact a



complaint was submitted to the Registrar. But, copy of the said complaint is not produced before this Court along with the writ petition. At the time of arguments, a representation addressed to the Registrar on 17.05.2007 is placed before the Court. The College has placed the relevant Notification regulating the percentage of attendance which the students are required to put in. It is clear from the Notification that they have adopted the UGC Regulations and have made it mandatory for a student to put in 75% of attendance in the course. The college has also produced the extract of the attendance register to show that the petitioners-students have not put in the requisite attendance. Merely because the examination fee was collected by the College, it cannot be said that petitioners were found eligible for appearing for the examination. Learned counsel for the respondent-College submits, referring to the examination application form, copy of which is produced at Annexures-R9 and R-10 that the same is not certified by the Principal and that in the absence of certification by the Principal, it cannot be said that the examination forms were duly submitted to the College.

9. There is considerable force in the argument of the counsel appearing for the 3rd respondent. The requirement of putting in



minimum percentage of attendance is prescribed keeping in mind the standard of education and the need for the students to undergo minimum number of lectures, tutorials, seminars, practicals etc., This Court will not be justified in interfering with such requirements prescribed by the academic bodies. If the grievance of the petitioners was that they were illegally denied attendance they could have approached the competent authority including the Vice Chancellor of the University airing such grievance. In this case no such complaint or grievance is made before the Vice Chancellor or any other competent authority of the University. The representation dated 17.05.2007 made to the Registrar, Bangalore University and the Registrar (Evaluation), Bangalore University, copy of which is produced at the time of arguments does not make any such grievance regarding the illegal action on the part of the 3rd respondent-institution in marking the petitioners absent even though they had attended classes. The allegations made in the representation dated 17.05.2007 relate to the period after the grant of interim order and the alleged harassment to the students after the interim order was granted. Therefore, there is no reason for this Court to presume or proceed on the basis that



the College has acted illegally or has denied attendance to the petitioners though they had attended the classes.

10. Though counsel for the petitioners submits that the petitioners have taken the examination as per the interim order of this Court and they should be allowed to have the benefit of the results of the examination, I am not inclined to accept such a request as the petitioners are found not eligible to take up the examination by virtue of the Notification issued by the University prescribing the minimum percentage of attendance that the students were required to put in.

11. In these circumstances, the writ petition being devoid of merits stands dismissed. The petitioners are at liberty to make a representation to the Registrar or to the Vice Chancellor of the University, if they, have got any grievance regarding denial of attendance.

Sd/-
Judge

Jm/-