

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 27TH DAY OF AUGUST, 2014

BEFORE

THE HON'BLE MR. JUSTICE A.S.BOPANNA

WRIT PETITION No.30909 OF 2014 (EDN-EX)

Between:

Calvin Abishek
S/o Christina Prasanna Kumari
Aged about 20 years
#126/L, 4th Block
S.T.Bed Road
Kormangala
Bangalore – 560 095

... Petitioner

(By Shri , Advocate)

And:

1. St.Joseph's College of Commerce
(Autonomous, Affiliated to
Bangalore Univesity)
#163, Brigade Road
Bangalore – 560 025
Rept. by its Principal
2. The State of Karnataka
By its Secretary
Department of Education
Vidhana Soudha
Bangalore – 560 001

3. The Bangalore University
By its Vice Chancellor
Bangalore

... Respondents

(Shri P.D.Souja, Advocate for respondent No.1
Smt.Pramodhini Kishan, HCGP for respondent No.2
Sri.N.K.Ramesh, Advocate for respondent No.3))

This Writ Petition is filed under Articles 226 and 227 of Constitution of India praying to call for records pertaining to the tournament and attendance, maintained by the Sports Department of the respondent – College and to direct the respondent – College to consider award of attendance to the petitioner for the days of matches, tournament as per the Log book maintained by the Sports Department of the College and as provided under the Regulations of the College and to allow the petitioner to attend the 3rd semester classes.

This Petition coming on for Preliminary Hearing in 'B' Group this day, the Court made the following:-

ORDER

The petitioner is before this Court seeking that the records pertaining to the tournament and attendance maintained by the Sports Department of the respondent – college be called and pursuant, thereto a direction be issued to the respondent – college to consider the award

of attendance to the petitioner for the days of matches, tournaments as per the Log book maintained by the Sports Department of the college and as provided under the Regulations of the College and to allow the petitioner to attend the third semester.

2. The facts leading to the said prayer made by the petitioner before this Court is that the petitioner who was pursuing his second semester of the first year B.B.M Course in the respondent – college was not permitted to appear for the examinations which was conducted at the end of the semester, on the ground that the petitioner does not satisfy the requirement of minimum of 75% attendance.

3. The contention of the petitioner is that he is a football player who represented the college team, yet he has not been given credit of the attendance for the match played by the petitioner in the tournament

during 4th to 6th of March, 2014 and again on 14th and 15th of March, 2014. It is his case that if the credit for the said matches where he has represented the college is given to him, he would satisfy the requirement.

4. The first respondent has filed the objections statement. The case as put forth by the petitioner is disputed by them. The fact that the petitioner had represented the college as a football player has not been disputed. However, the contention is that in respect of the matches that were played by the statements by representing the college, attendance as and when claimed would be credited. In the instant case, it is contended that insofar as the said dates, there is no material to indicate that the petitioner has claimed attendance for having represented the college. Therefore, no grievance could be put forth. It is contended that the Regulation is clear that if a student

fails to secure minimum of 75% attendance in each subject in the semester, then he or she will be detained for that semester and would have to repeat the semester after enrolling afresh.

5. The rival contentions would indicate that though there is no dispute to the fact that the petitioner was a football player representing the respondent – college, the dispute essentially is as to whether the petitioner had in fact represented and played for the college on the dates which he has claimed in the petition and whether the attendance for the said dates is to be credited. When rival contentions have been put forth in the statement and the document is relied on by the respondent – college as at Annexure-R1 to indicate that for the months that has been shown therein credit has been given to the petitioner, but the same has not been granted during the month of March, 2014 and when it

is further sought to be justified by the respondent – college that during the said month, he has not claimed credit for representing the college, but has only made a representation at a later date, such disputed facts in any event cannot be adjudicated in a writ petition. Therefore, the prayer to call for records and thereafter to permit the petitioner to pursue the third semester, when prima facie it is seen that he does not satisfy the minimum criteria of attendance and the shortfall is not also minimal, this Court cannot grant the relief to the petitioner to pursue the Course by attending the third semester.

6. The question therefore, is as to whether the petitioner can claim for any other relief from this Court? Insofar as the fact that the petitioner would have to repeat the second semester cannot be disputed. Learned counsel for respondent No.1 – college would

also indicate that the second semester is to commence from the month of November, 2014 and the college has no objections to permit the petitioner to repeat the second semester. Learned counsel for the petitioner would however put forth the submission before this Court that the petitioner has certain financial difficulties and also is being taken care by a single parent and therefore the petitioner would not be able to bear the 50% of the annual fees which is required to be paid in the event of repetition of the semester. To the said extent, it would be appropriate to permit the petitioner to make a detailed representation to the Principal of respondent No.1 – College and this Court is confident that respondent No.1 – institution being administered by a Christian missionary would be compassionate in this aspect, more particularly keeping in view the fact that the petitioner also belongs to a minority community and the very purpose for which

such institutions are set up to aid the up bringing of the persons of minority communities notwithstanding the fact that the institution is also open to all others. With the hope that respondent No.1 would consider that aspect sympathetically, leave is granted to the petitioner to make such representation.

In terms of the above, the petition stands disposed of .

**Sd/-
JUDGE**

AHB