

PETITIONER:
UNIVERSITY OF MYSORE

Vs.

RESPONDENT:
GOPAL GOWDA AND ANOTHER

DATE OF JUDGMENT:
02/03/1965

BENCH:
SHAH, J.C.
BENCH:
SHAH, J.C.
SUBBARAO, K.
BACHAWAT, R.S.

CITATION:
1965 AIR 1932 1965 SCR (3) 229

ACT:
Mysore University Act, 1956, ss. 22, 23, 43--Power to make regulations for "maintenance of standards"--Scope of.

HEADNOTE:

Under Sections 22, 23, and 43 of the Mysore University Act, the Academic Council of the University was empowered, inter alia, to control and operate the teaching, courses of study, to secure maintenance of standards, etc., and to make necessary regulations including those relating to examinations and conditions on which students may be admitted to examinations, degrees, diplomas, etc.

In exercise of these powers, the Academic Council made certain Regulations relating to the grant of a degree of Bachelor of Veterinary Science and by clause 3(c) of these Regulations, it was provided that no candidate who failed an examination four times, would be permitted to continue the course.

The respondents were declared unsuccessful in four successive First Year Course examinations and the Controller of Examinations informed each respondent that he had lost their right to continue studying for the degree. The respondents thereupon filed petitions in the High Court, praying for the issue of writs quashing the orders communicated to them and directing the University to permit them to appear for the subsequent examinations and to continue their studies.

The High Court held that Regulation 3(c) was beyond the competence of the Academic Council and the University.

On appeal to this Court:

HELD: that power to maintain standards in the course of studies confers authority not merely to prescribe minimum qualifications for admission, courses of study, minimum attendance at an institution which may qualify the student for admission to the examination, etc., but also authority to refuse to grant a degree, diploma, or other academic distinction to students who fail at the final examination and to direct that a student, who is proved not to have the ability or the aptitude to complete the course within a reasonable time, discontinue the course.

There is no warrant for restricting the expression

"maintenance of standards" only to matters such as minimum attendance, length of the course and prescription of minimum academic attainments.

[233F-H]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 565-566 of 1963.

Appeals by special leave from the judgment and order dated January 31, 1962 of the Mysore High Court in Writ Petitions Nos. 940 and 1056 of 1961.

G.S. Pathak and M/s. Rajinder Narain and Co. for the appellants.

R. Gopalakrishnan, for the respondent.

The Judgment of the Court was delivered by

Shah, J. These appeals raise the question whether the Academic Council of the Mysore University was competent in exercise
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of the powers conferred by ss. 22, 23 and 43 of the Mysore University Act 23 of 1956 to frame cl. 3(c) of the Regulations relating to the grant of the degree for Bachelor of Veterinary Science (B.V.Sc.). The Mysore University Act 23 of 1956---hereinafter referred to as 'the Act'--was enacted to provide for the reorganisation of the University of Mysore and other incidental matters. The powers of the University are described in s. 4. Section 21 provides for the constitution of the Academic Council--which is one of the authorities of the University designated under s. 13--and s. 22 sets out the powers of the Academic Council. It provides:

"The Academic Council shall, subject to the provisions of this Act, have the control and general regulation of teaching, courses of studies to be pursued, and maintenance of the standards thereof and shall exercise such other powers and perform such other duties as may be prescribed."

By s. 23 other powers of the Academic Council are prescribed. Insofar as it is material, the section provides:

"In particular and without prejudice to the generality of the powers specified in section 22, the Academic Council shall have, subject to the provisions of this Act, the following powers, namely:

- (a) x x x x
- (b) x x x x

(c) to make Regulations relating to courses, schemes of examinations and conditions on which students shall be admitted to the examinations, degrees, diplomas, certificates and other academic distinctions;" Section 43 of the Act sets out the scope of the Regulations. enacts:

"Subject to the provisions of this Act, the Regulations may provide for the exercise of all or any of the powers, enumerated in sections 22 and 23 of this Act and for the following matters, namely:

- (i) the admission of students to the University;
- (ii) the recognition of the examinations

and degrees of other Universities as equivalent to the examinations and degrees of the University;

(iii) the University courses and examinations and the conditions on which students of the University and affiliated colleges and other University institutions shall be admitted to examinations for the degrees, diplomas and certificates of the University; and

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(iv) the granting of exemptions."

In exercise of the powers conferred by ss. 22, 23 and 43, Academic Council made Regulations relating to the grant of a degree for Bachelor of Veterinary Science. Clause 3(c) of the Regulations is as follows:

"No candidate who fails four times shall be permitted to continue the course."

The Mysore Veterinary College, Hebbal, Bangalore, is one of the colleges affiliated to the University of Mysore for training students for the degree course in Bachelor of Veterinary Science (B.V.Sc.).

These two appeals arise on facts which are closely parallel. Gopala Gowda--respondent in C.A. No. 565 of 1963--was admitted in the year 1958 as a student in the First Year Course in the Mysore Veterinary College. Gopala Gowda was declared unsuccessful in four successive First Year Course examinations. The Controller of Examinations, Mysore University, then informed Gopala Gowda by letter dated August 2, 1961 that he "had lost" his right to continue studies for the Bachelor of Veterinary Science (B.V.Sc.) course under Regulation 3(c) of the Regulations governing the course of study framed by the University leading to the degree of the Bachelor of Veterinary Science (B.V.Sc.). Gopala Gowda then presented a petition in the High Court of Mysore praying that, for reasons set out in his affidavit, the High Court do issue a writ quashing the order communicated by the Controller of Examinations in his letter dated August 2, 1961 and do further direct the University of Mysore and the Controller of Examinations to permit him to appear for the subsequent examinations and to prosecute his training for the Bachelor of Veterinary Science Course. The other respondent Bheemappa Reddy had also failed to satisfy the examiners in four successive First Year Course examinations commencing from April 1959, and on being intimated by the Controller of Examinations that he will not be permitted to continue his training for the Bachelor of Veterinary Science (B.V. Sc.) course under Regulation 3(c), he filed a similar writ petition in the High Court.

The High Court of Mysore held that Regulation 3(c) of the Regulations governing the course of study leading to conferment of the degree of Bachelor of Veterinary Science of the Mysore University could not be said "to subserve the purpose of maintaining the standards mentioned in s. 22 of the Mysore University Act" and on that account was beyond the competence of the Academic Council or the University and those bodies had no power to prevent Gopala Gowda and Bheemappa from prosecuting their studies and from appearing at the subsequent examinations. With special leave. the University of Mysore, the Controller of Examinations and the Principal of the Mysore Veterinary College, have appealed.

In the view of the High Court, under s. 22 of the Act the Academic Council could prescribe minimum qualifications for

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admission to a degree course in an affiliated college, and also could prescribe standards which qualify a candidate for admission to the degree or academic distinction, but the Council had not the power to prescribe a condition on the 'satisfaction of which a student admitted to the Course could prosecute his study in the course to which he had been admitted. Power to frame Regulations for "maintenance of standards" within the meaning of s. 22 and prescribing conditions on which a student shall be admitted to an examination within the meaning of s. 23(3) (c) did not. in the opinion. of the High Court, import power to make Regulation preventing a student admitted to a course from prosecuting his study, for the only consequence of failure in an examination is that the student does not qualify himself for admission to the degree sought by him. and the University would be entitled to withhold conferment of the degree. but not to obstruct the prosecution of the course of study. The expression "maintenance of standards" in the view of the High Court could only take in considerations such as undergoing a course of study and keeping a prescribed minimum attendance to an institution maintained or recognised by the University, but it does not and "cannot be taken to mean that by reason only of the fact that a student has not attained the standard of knowledge or proficiency required for passing the examination within that period, he can be said to be for all times incapable of attaining that standard." The High Court proceeded to observe "The power to maintain certain standards before a degree or other academic distinction is conferred upon a person involves the power to withhold the conferment of that degree unless a person attains the necessary standard, but it cannot either in logic or in justice involve the power to refuse to permit a person to attain that standard. That power can and should be exercised at the time of admission into the course of study if the University is of the opinion that the applicant for admission into the course does not even possess the minimum suitability for taking that course of study. Once it admits him into the course of study, it must be held to have entertained the opinion that he does have the minimum suitability to take that course which means that he has the capacity by undergoing the course of study to attain the standard necessary for receiving the degree."

We are unable to agree with the view expressed by the high Court. The Academic Council is invested with the power of controlling and generally regulating teaching, courses of studies to be pursued. and maintenance of the standards thereof. and for those purposes the Academic Council is competent to make regulations. amongst others, relating to the courses, schemes of examination and conditions on which students shall be admitted to the examinations. degrees. diplomas. certificates and other academic distinctions. The Academic Council is thereby invested with power to control the entire academic life of the student from the stage of

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admission. to a course of study to the. ultimate conferment of a degree or academic distinction. Admission to a course or branch of study depending upon possession of the minimum qualifications prescribed does not divest the Academic. Council of its control over the' academic career of the student, for the Council has for maintaining standards the power to prescribe schemes of examinations, and also to prescribe conditions on which students. Shall be admitted to the examinations. "Power to prescribe conditions, On which, a student may be admitted to the examinations, in

our opinion, necessarily implies the power to refuse to admit a student in certain contingencies, for the power to admit to an examination implies the power to weed out students who have on the application of a reasonable test proved themselves to be unfit to continue the course or persecute training in that course. If on account of general inaptitude for being trained in a course or on account of supervening disability to prosecute a course of study, a student admitted to that course is found by the Academic Council to be unfit to prosecute his training, it would, in our judgment, be within the power of the Academic Council, in exercise of its authority to control and maintain standards, and also of its authority to prescribe conditions on which students may be admitted to examinations, to direct that the student shall discontinue training in that course. And failure by a student to qualify for promotion or degree in four examinations, is certainly a reasonable test of such inaptitude or supervening disability. If after securing admission to an institution imparting training for professional courses, a student may be held entitled to continue indefinitely to attend the institution without adequate application and to continue to offer himself for successive examinations, a lowering of academic standards would inevitably result. Power to maintain standards in the course of studies. in our judgment, confers authority not merely to prescribe minimum qualifications for admission, courses of study, and minimum attendance at an institution which may qualify the student for admission to the examination, but also authority to refuse to grant a degree, diploma, certificate or other academic distinction to students who fail to satisfy the examiners at the final examination, and to direct that a student who is proved not to have the ability or the aptitude to complete the course within a reasonable time to discontinue the course. There is no warrant for restricting the expression "maintenance of the standards" only to matters such as minimum attendance, length of the course and prescription of minimum academic attainments.

The High Court was therefore in error in holding that the Academic Council had no power to prescribe Regulation 3(c). We are informed at the Bar, however, that since the High Court decided the case on January 31, 1962, the two respondents were permitted to continue their courses of study and they have appeared for the subsequent examinations and they were declared to have duly

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passed their second and third year examination and have been permitted to keep terms for the degree examination. Even though, the view taken by the High Court was erroneous, we do not think, having regard to the fact that the respondents were permitted to continue their course of study, the University not having applied for any interim orders pending disposal of these appeals, that any order should be passed in these appeals so as to deprive the respondents of the training they have received.

These appeals are filed with special leave, and in the exceptional circumstances of the case, we do not think we would be justified, merely because we disagree with the interpretation of the High Court of the relevant regulation, in making an effective order against the respondents so as to nullify the results declared by the University concerning them in respect of the second and third year examinations.

The appeals are therefore dismissed. There will be no order as to costs.
Appeals dismissed.

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JUDIS