

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-12-2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K.AGNIHOTRI  
AND  
THE HON'BLE DR.JUSTICE P.DEVADASS

Writ Appeal No.1275 of 2014  
and  
M.P.Nos.1 and 3 of 2014

1. The Director,  
The School of Excellence in Law,  
The Tamil Nadu Dr.Ambedkar Law University,  
'Poompozhi',  
No.5, Dr.D.G.S.Dhinakaran Salai,  
Chennai-600 028.
  2. The Tamil Nadu Dr.Ambedkar Law University,  
'Poompozhi',  
No.5, Dr.D.G.S.Dhinakaran Salai,  
Chennai-600 028.
- ... APPELLANTS

Vs.

K.Mahalakshmi ... RESPONDENT

Appeal filed under Clause 15 of Letters Patent against the order, dated 4.9.2014 made in W.P.No.20263 of 2014 on the file of this Court.

W.P.No.20263 of 2014 : Writ of Certiorarified Mandamus or any other order or direction in the nature of Writ calling for the file relating to the proceedings in C. No.1501-A/SOEL/2014 of the 1st respondent dt 22.7.2014 and quash the same and further direct the 1st respondent to permit the petitioner to attend the third semester examination without attending and re-doing the third semester classes and consequentially permit the petitioner to attend the third year classes for the academic year 2014-15.

For Appellants : Mr.V.M.G.Ramakkannan

For Respondent : Mr.S.Senthilnathan

(JUDGMENT OF THE COURT WAS MADE BY DR.P.DEVADASS, J.)

This Writ Appeal, at the instance of the respondent/Tamil Nadu Dr. Ambedkar Law University, Chennai, arises out of the order of the Writ Court passed in W.P.No.20263 of 2014 on 4.9.2014.

2. The writ petitioner Mahalakshmi joined the Five Year Integrated B.A.B.L., (Hons.) Degree Course in the School of Excellence in Law of the Tamil Nadu Dr. Ambedkar Law University in Chennai. She passed I and II Semester Examinations successfully. Problem arose in her appearing for III Semester (II year 2013-2014) Examination. She was not permitted to write the III Semester Examination by the University as she had secured only 52.9% as against 75% of attendance prescribed by the University.

3. In the meanwhile, she had gone to IV Semester. On 16.12.2013, the University directed her to redo III Semester during the academic year 2014-2015. On 22.7.2014, by its proceedings, the University asked her to explain as to how she had continued to do IV Semester. In the meanwhile, she had passed her IV Semester Examination.

4. In the circumstances, the student requested the University to condone the lack of attendance in the III Semester. However, the University refused it.

5. In this backdrop of the matter, the student filed W.P.No.20263 of 2014 for issuance of a Certiorarified Mandamus to call for the proceedings of the University dated 22.7.2014, quash the same, direct the University to permit her to write III Semester Examination and consequently permit her to attend third year classes for the academic year 2014-2015.

6. The University contended before the Writ Court that condonation can be considered only for those who have attended classes upto 65% and below that it cannot be condoned.

7. The Writ Court, considering both side contentions, allowed the writ petition, set aside the impugned order dated 22.7.2014, directed the University to permit the student to continue her Third Year Course after condoning the lack of attendance.

8. Aggrieved, the Law University preferred this Writ Appeal.

9. The learned counsel for the Law University contended that minimum the student should have secured 75% of attendance, consideration of condonation will arise, if she had secured 65% of attendance, as she had secured only 52.9%, the University cannot condone the lack of attendance. The learned counsel for the appellants further contended that in this Professional Course, securing required attendance is an essential requirement for maintaining the standards of the Integrated Law Course and this aspect has been overlooked by the Writ Court.

10. On the other hand, the learned counsel for the respondent/ student contended that actually even as per the calculation of the University, she fell short of only six days to make up the deficiency for condonation of the delay. She is a brilliant student. She has passed I and II Semester Examinations with good marks. She had also passed IV Semester Examination. While she was in the Third Year, directing her to redo III Semester of II year and thereafter write the III Semester Examination is not in accordance with law and it is not in the best interest of the student and it will cripple her educational career.

11. The learned counsel for the respondent further contended that the University has condoned the lack of attendance of many students, who have secured attendance far below the attendance secured by the respondent, however, the University has singled out, discriminated the respondent alone.

12. The learned counsel for the respondent also submitted that the respondent is ready to pay the condonation fee as it was collected and condoned in respect of certain other students.

13. In the light of the above submissions, as directed by this Court, the Registrar of the University filed counter-affidavit. In para-10 of the counter-affidavit, the Registrar admitted they having condoned the lack of attendance of 11 students in 2013 with the approval of the University Syndicate as an one-time measure after receiving the condonation fee, however, giving similar benefit to the respondent will undermine the standard of the University.

14. In reply, the student filed counter-affidavit stating that not only in 2012-2013, even in the previous academic year, namely, 2013-2014, the University Authorities have condoned the shortage of attendance of 10 students even without the approval of the University Syndicate.

15. We have anxiously considered the rival submissions, perused the order of the Writ Court, affidavits filed by both sides and the materials on record.

16. Now, in the present case, the writ petitioner has successfully completed her First Year and passed I, II Semester Examinations. She has also passed IV Semester Examination of Second Year. During V Semester of Third Year, she was asked to redo III Semester of Second Year. It is stated that she was asked to do so when she has passed IV Semester and while she was in the next year of the Course.

17. Her case is a problem of shortage of attendance in III Semester of II Year Integrated B.A.B.L., (Hons.) Course.

18. Admittedly, she had secured 52.9% of attendance in the III Semester. Had she secured 65% of attendance, according to University, it could have condoned her lack of attendance on payment of condonation fee.

19. But, she says that the lack of attendance of certain students who have secured attendance ranging from 40% to 50% has been condoned on receipt of condonation fee and she was discriminated and was asked to redo III Semester Course. She has also furnished the following details of those students:-

| S.No | Year   | Name            | Condonation Fee (In Rs.) |
|------|--------|-----------------|--------------------------|
| 1.   | Fifth  | Dharmalingam    | 10,000                   |
| 2.   | Fifth  | Varadarajan     | 10,000                   |
| 3.   | Fifth  | Aditya Rajamani | 10,000                   |
| 4.   | Fifth  | Gowtham         | 10,000                   |
| 5.   | Fifth  | Ayesha Parveen  | 10,000                   |
| 6.   | Fourth | Kalanidhi       | 10,000                   |
| 7.   | Third  | Singharavelan   | 10,000                   |
| 8.   | Third  | Prabhakaran     | 10,000                   |
| 9.   | Third  | Suresh Krishnan | 10,000                   |

20. In this connection, the learned counsel for the respondent pointed out that the stand of the University that in 2012-2013 with the approval of the University Syndicate as an one-time measure, lack of attendance of certain students were condoned after receiving the condonation fee is not correct as even without the approval of the University Syndicate, during 2013-2014, the University Officials have condoned the attendance

of 9 students who have secured attendance far below 50% and the University cannot discriminate the writ petitioner alone.

21. The Writ Court, considering the above aspects as well as the brilliant academic performance of the student rightly not approved the stand of the University and directed the University to permit her to write III Semester Examination without redoing III Semester. However, the question of attendance requirement on the anvil of Bar Council of India Rules and the University Regulations will be considered in an appropriate case.

22. It is pertinent to note that the impugned order of the University dated 22.7.2014, directing her to redo III Semester and also asked her to explain as to why she is doing Third Year has been ultimately set aside by the Writ Court and in view of the interim order of the Writ Court dated 31.7.2014, she was doing Third Year Course, namely, her V Semester and in para 7 of its order dated 4.9.2014, the Writ Court also directed that 'she should be given credit to, while arriving at the attendance for the current academic year'. Subsequently, on 23.9.2014, in this Writ Appeal, this Court granted interim stay of the said order. Now the said order of the Writ Court not approving the order of the Law University has been upheld by us. Thus, in view of the said order of the University and the Court proceedings, in any way, the educational career of the student should not be affected.

23. In view of the foregoing, it is ordered as under:-

(i) The appellants are directed to condone the lack of attendance of the respondent in III Semester of the Second Year B.A.B.L., (Hons.) Integrated 5 year Course on her payment of Rs.15,000/- (Rupees Fifteen Thousand only) as condonation fee;

(ii) The respondent shall pay the said condonation fee to the University within 15 days from the date of receipt of a copy of this order;

(iii) The appellants shall permit the respondent to write III Semester Examination in the forthcoming examination on her payment of prescribed examination fee;

(iv) The period during which the respondent had the benefit of the interim order of the Writ Court dated 31.7.2014, should be given credit to, while arriving at the attendance for her Third Year Course;

(v) However, in the circumstances, costs made easy.

24. This case shall not be treated as precedent in future, as the order is passed considering the action of the appellants University by condoning the shortage of attendance in respect of other candidates in the past. We expect the

appellants University to maintain standard and also adhere to the provisions of Rules and Regulations in respect of all candidates.

25. Accordingly, this Writ Appeal is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Vice-Chancellor,  
The Tamil Nadu Dr.Ambedkar Law University,  
'Poompozhi',  
No.5, Dr.D.G.S.Dhinakaran Salai,  
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Chennai-600 028.
3. The Registrar,  
The Tamil Nadu Dr.Ambedkar Law University,  
'Poompozhi', No.5, Dr.D.G.S.Dhinakaran Salai,  
Chennai-600 028.

+1cc to Mr.S.Senthilnathan, Advocate, S.R.No.68473

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and  
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KSJ(CO)  
CA(22/12/2015)

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