

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos and 10310 to 10314 of 2014
and
MP.Nos.1 and 2 of 2013

M.Sheika Abdulla .. Petitioner in WP.No.10310 of 2014
P. Tamilselvan .. Petitioner in WP.No.10311 of 2014
A.Prakash .. Petitioner in WP.No.10312 of 2014
M.Sivasubramanian .. Petitioner in WP.No.10313 of 2014
R.Vignesh ... Petitioner in WP.No.10314 of 2014

Versus

1. The Chairman
Board of Examinations
Directorate of Technical Education
Guindy, Chennai - 600 025
2. Maharaja Polytechnic College
Aralipatty Vilakku,
S.V.Mangalam Post, Thirupathur Taluk
Sivaganga District - 630 501
represented by its Principal .. Respondents in all WPs

Writ petitions filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents herein to allow the petitioners to complete the third year Course and second year course of Diploma in Mechanical Engineering during the academic year 2013 - 2014.

For Petitioners: Mr.S.Saravanan
For R1 : Mr. R.Vijayakumar
Additional Government Pleader
For R2 : Mr.V.Raghavchari

ORDER

The petitioners are the students of the second respondent Institution by pursuing their Diploma course. The petitioners in WP.No.10310, 10312 and 10313 of 2014 are in the final year and the other two writ petitioners, in WP.No.10311 and 10314 of 2014 are in the second year.

2. The petitioners in all these writ petitions seek for a direction to permit them to complete the Course for the Diploma in Mechanical Engineering in respect of the academic year 2013 -2014. At the time when the writ petitions were entertained, interim direction was issued on 09.4.2014 stating that though the petitioners are lacking in 80% attendance, considering the fact that they are facing examination on next day i.e. 10.4.2014, this Court directed them to write examination with further direction, that results will not be published and it will be subject to the writ petitions and that they will not claim any equity. The petitioners' contention is that Attendance Register has not been properly maintained by the Institution and the information has been given to the first respondent by an unqualified person and the person who has passed his B.E. only in December 2013, has been appointed as Head of the Department. Hence, it is submitted that the attendance has not been properly recorded. Subsequently, after the examinations were written, the petitioners were not permitted to proceed further and this Court has passed another interim direction on 19.9.2014 observing that the second respondent, based on written information given to the first respondent by an unqualified person, has not permitted the petitioners to appear for examination and, therefore, a direction was issued to the first respondent to conduct an inquiry into the affairs of the second respondent on the maintenance of Attendance Register, qualification of the person, who is maintaining the Attendance Register, who is supposed to be the Head of the Department and submit a report within two weeks. Without prejudice to the right of the second respondent to contest the claim of the petitioners, the petitioners were permitted to write the examination with specific observation that the results will be subject to further orders to be passed by this Court.

3. Pursuant to the interim direction issued by this Court on 19.9.2014, the Chairman of the Board of Examination and the Directorate of Technical education, Vide letter dated 15.10.2014 has submitted a report to the learned Additional Government Pleader. From the report, it is seen that pursuant to the direction issued by this Court, the team of Inspecting officials was constituted consisting of four HODs, headed by the Principal, Periyar Centenary Polytechnic College, Vallam, Thanjavur District, to conduct an inquiry into affairs of the second respondent College on the maintenance of Attendance Register and the said team visited the Maharaja Polytechnic College and verified the class log book, master attendance and e-attendance and submitted a report on 09.10.2014. As per the records, percentage of attendance of the five petitioners are as follows:-

2013-2014 - VI Semester

S1 No	Name of the Student	Register No	Dec. &Jan 220 hrs	Feb. 168	March 77	Cum.52 5	%
1	Sheik Abdulla M	12240687	180	127	66	373	71.05
2.	Praskash A	12240668	182	128	63	373	71.04
3.	Siva Subramaniyan.M.	12240690	180	108	77	364	69.33

2013-2014 IV Semester

S1 No	Name of the Student	Register No	Dec. &Jan 220 hrs	Feb. 168	March 77	Cum.52 5	%
4	Vignesh R	13319089	193	124	63	380	72.38
5.	Tamilselvan P	13269193	180	135	67	382	72.76

2013-2014 V Semester

S1 No	Name of the Student	Register No	Total Working Hrs	Total attend ed Hrs	%
4	Vignesh R	13319089	539	375	69.57
5.	Tamilselvan P	13269193	539	395	73.28

4. In the report, it is further stated that that the petitioners have individually given the letters stating that they are aware of the Board Rules and would not be allowed to write Board Examination if there is a shortage of attendance. As per the direction of this Court, details of the Principal of the first respondent College and HODs which were maintained were produced. Further, the report states that as per the Board of Studies and Board Rules 3.2, a candidate will be permitted to appear for the Board Examinations only if he/she secures 80% attendance in the semester concerned and as per Rule 3.3, condoning of 5% shortage of attendance shall be given on genuine and valid reasons subject to the conditions that he /she satisfies all the other requirements. Further, it is stated that under no circumstances, a candidate with attendance less than 75%, will be permitted to write Board Examination. Even though they were not eligible due to shortage of attendance, because of the

interim direction of this Court, they were allowed to write examination. Further particulars as well as the letters written by the five petitioners along with report were also produced.

5. This Court will not interfere in the attendance requirement when there is a Rule governing the procedure in this regard. It is relevant to refer to the decision of this Court in W.P.No.20445 of 2014 dated 13.10.2014, wherein this Court rejected the similar prayer by quoting the law laid down in various decisions of this Court. At this stage, it is worthwhile to quote the relevant paragraph of the said Judgment:

"6.The fact that the University cannot condone the lack of attendance beyond a prescribed limit and the fact that the same has been upheld by the decisions of this Court in Leo Francis Xaviour v. The Principal, Karunya Institute of Technology [AIR 1993 Mad. 233], C.Praveen Chander v. The Principal, Sri Venkateswara College of Engineering [2006 WLR 176], K.Saravanan v. Principal, Government Law College [(2007) 4 MLJ 632], P.Balamurugan v. The Government of Tamil Nadu [W.P.No.10651 of 2008 dated 21.10.2008], Senthil Manoharan V. The Principal, Hindustan College of Engineering [W.P.No.10941 of 2008 dated 06.08.2009] and K.Khayathri V. The Secretary to Government of Tamil Nadu [W.P.No(MD) No.3588 of 2013 dated 0430.04.2013, are not in doubt. Therefore, there are no merits in the writ petition. Hence, it is dismissed. No costs."

6. Admittedly, as per the reports submitted by the Chairman, Board of Examinations, Directorate of Technical Education dated 15.10.2014, all the five petitioners who are in 6th, 4th and 5th semesters, do not satisfy the attendance requirements. The Rule provides for condonation of 5% shortage of attendance and that too, for genuine and valid reasons. The petitioners do not come within the 5% cut off and, therefore, they are ineligible to seek for permission to write examination in the light of Rule 3.2 of the Board of Examination and Studies Rules.

7. In the light of the above, no relief as sought for by the petitioners can be granted. The writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar
Dated:25.2.15

True Copy

Sub Assistant Registrar

To

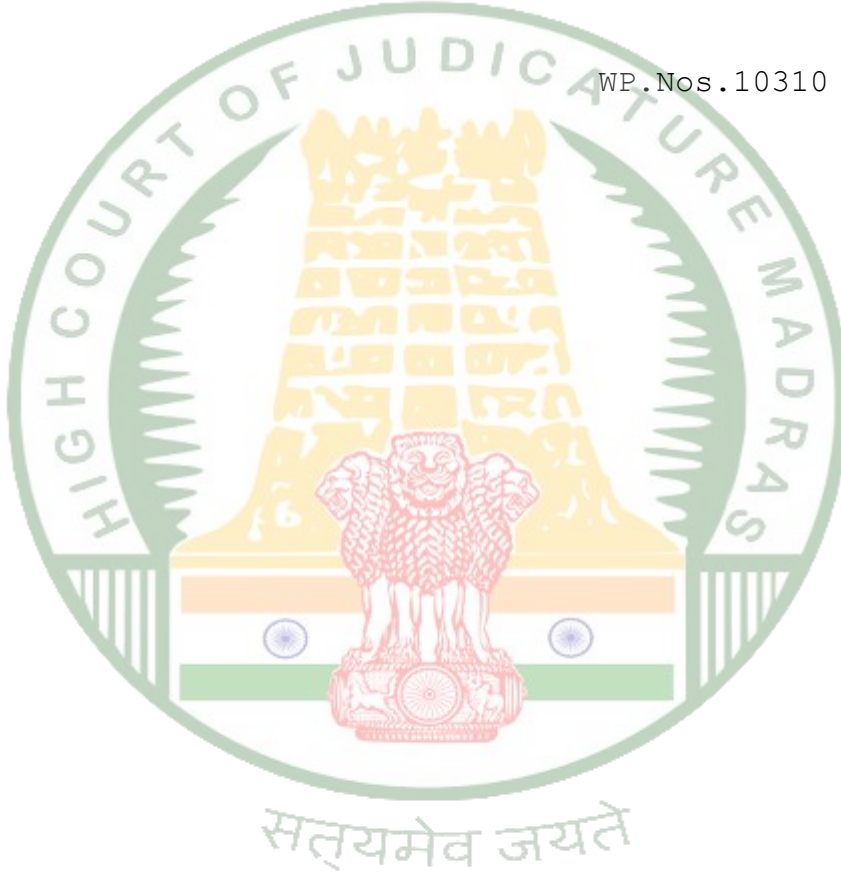
The Chairman
Board of Examinations
Directorate of Technical Education
Guindy, Chennai - 600 025

+1 cc to Government Pleader, SR.8436

+1 cc to Mr.V.Raghavachari Advocate, SR.8277.

lrs(co)
krd 4/3

WP.Nos.10310 to 10314 of 2014



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