

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.02.2015

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THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. Nos.26745 & 26746 of 2014 &
M.P.Nos.1 & 1 of 2014

G.Karthik

.. Petitioner in both W.Ps.

Vs.

The Registrar
Anna University
Chennai - 600 025.

.. Respondent in both W.Ps.

PRAYER : Petitions filed Under Article 226 of the Constitution of India praying to issue Writ of certiorari to call for the records of the respondent in Ref.No.001/ACOE (Uds)/2014-1 dated 25.09.2014 and Letter No.18842/C10/2014 dated 24.09.2014 respectively and quash the same.

For Petitioner : Mr.V.T.Gopalan, Sr.Counsel
for Mr.K.Ravindranath

For Respondent : Mr.L.P.Shanmuga Sundaram
Standing Counsel

C O M M O N O R D E R

By consent of the learned counsel on either side, the writ petitions are taken up for final disposal.

2.Heard Mr.V.T.Gopalan, learned Senior Counsel appearing for the petitioner and Mr.L.P.Shanmuga Sundaram, learned Standing Counsel appearing for respondent University.

3.The petitioner seek for quashing the impugned orders passed by the respondent in Ref.No.001/ACOE (Uds)/2014-1 dated 25.09.2014 and Letter No.18842/C10/2014 dated 24.09.2014 respectively.

4.By virtue of the aforesaid orders passed by the respondent the petitioner was directed to return the certificates within a period of fifteen days, so as to implement the decision of the Committee constituted by the respondent University which recommended

for cancellation of result. The very same impugned order was the subject matter of challenge in W.P.No.29794 of 2014 and this Court after hearing the learned counsel for the petitioner as well as the learned Special Government Pleader for the respondent University allowed the Writ Petition and the operative portion of the order reads as follows:

"5. By the impugned proceedings, the petitioner has been called upon to produce her return certificate and there is a proposal made by the respondent University to cancel the marks awarded to her and this appears to have been based on the investigation conducted by an In House Committee instituted by the respondent University. Based on certain news items appearing in the dailies stating that there is a mark scandal in Anna University. The respondent University constituted three member Committee to enquire into the alleged mark scandal reported in New Indian Express dated 25.06.2012. The Committee has gone into the matter and submitted a report which is yet to be evidential and a copy of the same has been produced by the learned Special Government Pleader appearing for the respondents before this Court.

6. On a perusal of the report submitted by the Committee, it is seen that there is allegation against two staff member, namely, the Additional Controller of Examinations (under graduate) and Assistant Professor, Computer Technology Department, MIT and the names of eight candidates have been mentioned and there is noting stating that those two staff members have favoured those eight candidates. Out of eight candidates which includes the petitioner, five have completed the course and the remaining were yet to complete the course at the time when the enquiry Committee submitted its findings.

7. On a perusal of the report of the Committee, it is evidently clear that there is no specific overt act or allegation that the petitioner was involved in the alleged scandal or that the favoritisms said to have been extended by the two staff members was at the behest of the petitioner or for certain other dishonest motive or there is any specific overt act against the petitioner. However, the entire report is focused on the staff members of the respondent University. However, conspicuously in the counter affidavit has been filed by the respondents in this Writ Petition, it is not mentioned

about what action has been taken against those two staff members wherein the finding was rendered by the In House Enquiry Committee that they were involved in certain fraudulent activities.

8. Be that as it may, the question which falls for consideration in this Writ Petition is as to whether the respondent University can call upon the petitioner to surrender the certificates after she has been awarded the degree that too after a period of 2 ½ years.

9. The learned counsel for the petitioner submitted that the impugned proceeding is vitiated on account of serious violation of principles of natural justice, no show cause notice was issued, no enquiry was conducted and straightaway, the impugned order has been passed. In this regard, reliance has been placed on the decision of this Court in the case of M.Davamani Christober V. Alagaplpa University reported in 2014 SCC OnLine Mad 3371. To support similar contention and to state that when the enquiry findings do not hold the students guilty, no rust action can be done against the students. The petitioner placed reliance on the decision of this Court in S.Sankarasubramanian and others Vs. Manonmaniam Sundaranar University and others in W.P.Nos. 10671 to 10676 of 2005, etc., dated 28.06.2006.

10. That apart, the learned counsel would submit that even assuming the certificates are surrendered and the action is taken to cancel the marks awarded, then the petitioner cannot taken the examination afresh since the syllabus has already changed and the pattern of examination is also different. In this regard, reliance has been placed on the decisions of the High Court of Kerala at Ernakulam in W.P(C).Nos. 19699 of 2011 (J) S.Sandhya Vs. The State of Kerala and others and 24896 of 2003 (y) V.K.Sajaikumar Vs. State of Kerala and others. The stand taken by the respondents as submitted by the learned Special Government Pleader is that when the enquiry Committee has rendered finding that there has been certain fraudulent activities, the respondent University was justified in calling upon the petitioner to surrender her certificates.

11. As pointed out earlier, in the counter affidavit, it is not stated as to what action has been

taken against the erring staff members. However, the undisputed fact being as on date the petitioner has not been held to be guilty of any fraudulent practice, misrepresentation or being party to any illegal transaction. In fact, the In House Committee reported only probabillise that the candidates might have paid bribe to the erring staff members. This by itself cannot be a ground to compel the petitioner to surrender her certificates. Furthermore, the degree having been awarded from three years back cannot be set at naught at this stage especially when the petitioner is not an accused. Furthermore, the petitioner was not heard by the Committee. There was no show cause notice to her and therefore, the entire proceedings initiated by the respondents as against the petitioner stands vitiated.

12. Accordingly, the Writ Petition is allowed and the impugned proceeding is quashed in so far as the petitioner is concerned. Consequently, connected Miscellaneous Petition is closed. No costs. However, this will not prevent the respondent University from proceeding against the erring staff members pursuant to the report submitted by the In House Committee or pursuing their complaint before the Vigilance and Anti Corruption. "

5. In the light of the above, these Writ Petitions are also disposed on the same line. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS II)

सत्यमेव जयते
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Sub Asst. Registrar

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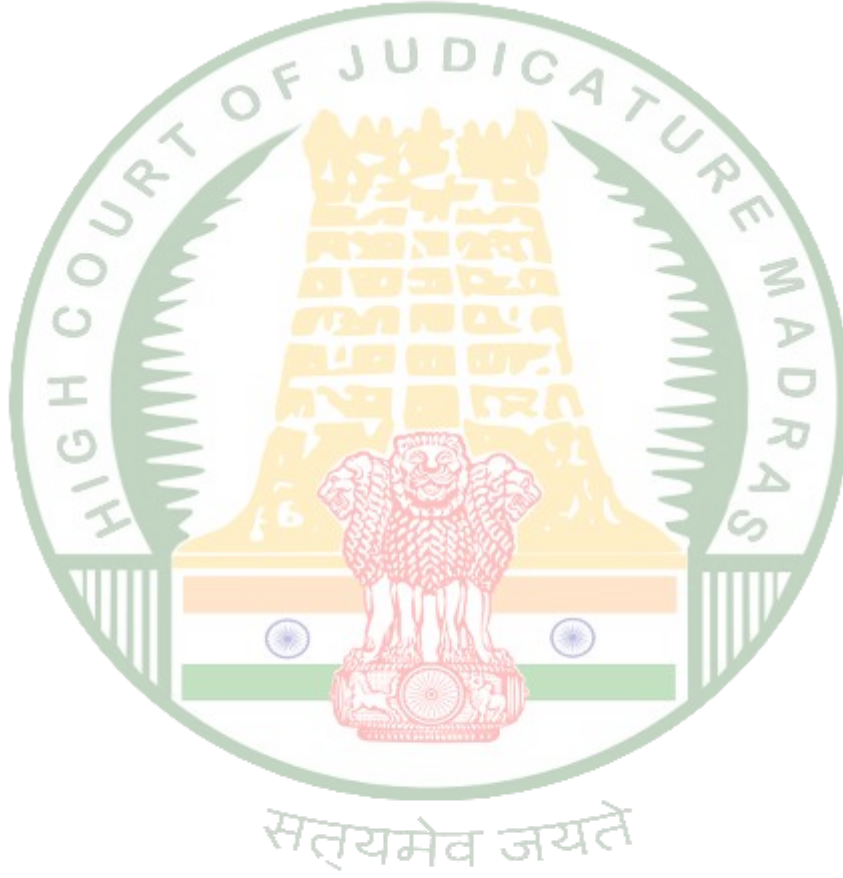
To

The Registrar
Anna University
Chennai - 600 025.

1 cc to M/s. L.P. Shanmugasundaram, advocate, Sr. 9304

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26746 of 2014

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