



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2015

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THE HONOURABLE MR. JUSTICE T. RAJA

W.P. (MD) No.1294 of 2015
and
M.P (MD) Nos.1 to 4 of 2015

V. Mariadass

: Petitioner

vs.

1. Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai - 600 025.

2. The Registrar,
Anna University Chennai,
Chennai - 600 025.

3. The Controller of Examinations,
Anna University Chennai,
Chennai - 600 025.

4. The Principal,
Raja Engineering College,
S.V. Raja Nagar,
Veerpanjan,
Madurai - 20.

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorari Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceeding No.Lr.No.9122/COE/C82/2014 dated 13.11.2014 and quash the same and consequently direct the respondents to permit the petitioner bearing registration number 912212103308 in Civil Department (2013-2016) to attend the 6th Semester.

For Petitioner

: Mr. V. Meenakshi Sundaram

For M/s. K.J. Associates

For Respondent-1

: Mr. Aaiyuram K. Selvakumar
Govt. Advocate

For Respondents

: Mr. Sadeskumar, AGP

(R1 and R2)

For Mr. M. Rajarajan



For Respondent-4 :No Appearance

O R D E R

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This Writ Petition has been filed by Mr.V.Mariadass, seeking issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the Controller of Examinations, Anna University, Chennai, the 3rd respondent herein, in his proceeding No.Lr.No.9122/COE/C82/2014, dated 13.11.2014 and quash the same with a consequential direction, directing the respondents to permit the petitioner to attend the 6th Semester.

2. I have heard the learned counsels appearing on either side and perused the materials available on record.

3. The petitioner got admission in 4th respondent, Raja Engineering College, Madurai in B.E., Civil Engineering. After joining the 4th respondent College, in the middle of the 5th semester, he met with an accident on 06.09.2014 and he was taking treatment as inpatient in a Hospital upto 20.10.2014. Since he sustained severe fracture injuries on his right leg, it has taken a long time for his discharge. Therefore, he was unable to attend the classes.

4. In the meanwhile, when the 2nd respondent had announced the date for applying the 5th semester examinations, the petitioner's name was not published in the condonation list for the reason that he failed to secure the minimum attendance. However, he remitted the examination fees on 01.10.2014, for 19 papers (9 current papers and 10 arrear papers).

5. It has been the claim of the petitioner, as pleaded by the learned counsel appearing for the petitioner that, when practical examinations were conducted on 29.10.2014, 31.10.2014 and 03.11.2014, due to his ailment, he could not appear for the said examinations, he made a representation on 06.11.2014 with a prayer to issue a Hall-ticket and permit him to attend the 5th semester examination. Since there was no response from the respondents, the petitioner came to this Court by filing W.P.(MD)No.18407 of 2014 with a prayer to direct the respondents to permit him to attend the 5th semester examination. This Court, by an order dated 13.11.2014, passed an interim order in M.P.(MD)No.1 of 2014 in W.P.(MD)No.18407 of 2014, permitting the petitioner to sit for the 5th semester examination. In the light of the direction, the petitioner was issued with a Hall-ticket. However, the Controller of Examinations, Anna University, Chennai, passed an order directing the petitioner to re-do the 5th semester, on 13.11.2014. However, by virtue of the order passed by this Court, the petitioner attended the 5th semester examinations with 10 arrear papers, however, the results were withheld both for 5th semester examination with 10 arrear papers. In



the meanwhile, since he was issued with an order directing him to re-do the 5th semester, challenging the order dated 13.11.2014, the petitioner has come back to this Court by filing the present writ petition.

6. Two submissions were placed before this Court. As per Clause 6.2, of the Regulation, a candidate who secures overall attendance between 65% and 74% in the current semester due to medical reasons (prolonged hospitalization / accident / specific illness) / Participation in Sports event may be permitted to appear for the current semester examinations subject to the condition that the candidate shall submit the medical certificate / sports participation certificate attested by the Head of the Institution. In the light of Clause 6.2 of the Regulation, as the petitioner has got only 42% of attendance, the Head of the Department has also accepted the case of the petitioner that he met with an accident and therefore, he was medically affected and he was taking treatment, therefore, he could be considered for writing the examinations. While so, again the respondents cannot direct the petitioner to re-do the 5th semester examinations, since the case of the petitioner is deemed to have fallen in Clause 6.2, of the Regulation.

7. Adding further, the learned counsel appearing for the petitioner would submit that when the petitioner has already got an order from this Court on 13.11.2014 in M.P.(MD)No.1 of 2014 in W.P (MD)No.18407 of 2014, to sit for 5th semester examinations and successfully wrote all the 5th semester examinations along with 10 arrear papers, taking as a special case, in view of the fact that the petitioner has really suffered severe injuries in the accident that took place on 06.09.2014, the order dated 13.11.2014, directing the petitioner to re-do the 5th semester examination is liable to be interfered with. In support of his contention, he has relied upon the orders passed by the Hon'ble High Court of Calcutta in W.P.38137 (W) of 2013 (Bhuvan Kapoor Vs. National Institute of Technology, Durgapur) and one another order passed by a Division Bench of this Court in W.A.(MD)No.492 of 2015, dated 16.07.2015 (J.Jeswin Samuel Vs. The State of Tamil Nadu). In this regard it is relevant to extract paragraphs 57 and 58 of the orders passed by this Court in J.Jeswin Samuel's case, which reads as follows:-

"57. Contention of the appellant is that from 27.03.2015, he was not permitted to attend theory classes. In the arrears subject, he had no attendance problems. The contention, as to whether, he was permitted to attend only certain internal examinations and not permitted to take up regular classes, for the 6th Semester subjects, which resulted in shortage of attendance and the further contention that regular ID Card and Bus Pass were seized and therefore, the appellant had no other alternative to pay the fees, on his own, by way of Demand Draft and the further contention that security



of the College would not permit him to enter the college and attend classes, without regular ID Card and that the appellant was issued only a temporary ID Card, valid only on 27.04.2015, are all supported by letters, dated 07.04.2015 and 09.04.2015 respectively, sent to the Principal, Holycross Engineering College and the copy of the said letters, have been sent to the Vice Chancellor of Anna University, Chennai.

58. The contention of Mr.Ajmal Khan, learned counsel for the 5th respondent-College, that the appellant had only 62% of attendance, far below than the requirement and in the absence of satisfying any of the contingencies mentioned in Clause 6 of the above said Regulations and therefore, there was no possibility even for condonation of the attendance, cannot be countenanced for the reason that the attendance particulars sent by the College, periodically, to Anna University, Chennai, is for 480 periods, which is also contrary to the regulations. The details are as follows:

Student Code	:	1395090016
Registration Number	:	950912114303
Name	:	JESWIN SAMUEL, J
Branch Code	:	114
Degree Code	:	11
Semester	:	06
Regulation	:	2008
Hall ticket flag	:	N
Manual Hall ticket flag	:	Y
		REO Periods = 480
		REO Percentage = 75
		Tot.Att.Hrs = 296
Eligibility	:	Tot. Hrs. = 480
		Eligibility = N
		Percentage = 61.66666666666667

8. It is relevant to extract Clause 6.2 of the Regulation, which reads as follows:-

"Rule 6.2, However, a candidate who secures overall attendance between 65% and 74% in the current semester due to medical reasons (prolonged hospitalization / accident / specific illness) / Participation in Sports event may be permitted to appear for the current semester examinations subject to the condition that the candidate shall submit the medical certificate / sports participation certificate attested by the Head of the Institution. The same shall be forwarded to the Controller of Examinations for record purposes."



9. But, this Court, in the light of Clause 6.2 of the Regulation, which is referred to above, is not inclined to accept the contention made by the learned counsel appearing for the petitioner, for the reason that when Clause 6.2 of the Regulation is very clear that a candidate who secures overall attendance between 65% and 74% in the current semester due to medical reasons may be permitted to appear for the current semester examinations subject to the condition that the candidate shall submit the medical certificate / sports participation certificate attested by the Head of the Institution, the petitioner has secured only 45% of the attendance, which is far below than the requirement. Therefore, this Court is of the considered opinion that there is no possibility even for condonation of the attendance. Hence, this Court is not inclined to entertain the writ petition. However, the submission made by the learned counsel for the petitioner that the petitioner was permitted to write 10 arrear papers along with 5th semester examinations on the basis of the order, as such, when he has written all the 5th semester papers along with 10 arrear papers, for the reason that there is no requirement for securing minimum attendance to write the arrear papers, this Court agreeing with this submission alone, hereby directs the respondents to release the result of the arrear papers only. Needless to mention that the petitioner is directed to re-do the 5th semester examinations.

10. In the result, the writ petition is dismissed. Consequently, connected miscellaneous petitions are also dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(R)

/True Copy/

Sub-Assistant Registrar

To

1. Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai - 600 025.
 2. The Registrar, Anna University Chennai,
Chennai - 600 025.
 3. The Controller of Examinations,
Anna University Chennai, Chennai - 600 025.
- +One cc to M/s.K.S.Associates, Advocate, SR.NO.53778
+One cc to Mr.M.Rajarajan, Advocate, SR.No.54058
mpk
RL/6 c- 29/10/2015

W.P. (MD) No.1294 of 2015