

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.179 of 2013

and

W.M.P.No.1 of 2013

Periyasamy Krishanthan  
(Roll No.1141110048),  
S/o.P.Periyasamy,  
Old No.39, Paramanandam Street,  
Siva Illam, Sevan Wells,  
Chennai-600 001,  
Tamil Nadu.

... Petitioner

Vs.

1.The Dean (Academic),  
National Institute of Technology,  
Surathkal Srinivasanagar,  
Mangalore-575 025.

2.The Superintendent of Police,  
SPE, CBI, ACB, Chennai-600 006.

3.The Registrar,  
National Institute of Technology,  
Tiruchirapalli,  
Tamil Nadu-620 015.

4.Union of India,  
rep. by it Secretary,  
Department of Higher Education,  
Ministry of Human Resource and Development,  
Shastri Bhawan, Dr.Rajendra Prasad Road,  
New Delhi-110 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order DASA 2010/Admission/2, dated 24.12.2012 passed by the 3<sup>rd</sup> respondent and to quash the same.

For Petitioner : Mr.N.R.Chandran, Senior Counsel,  
for M/s.S.Yahshwanth

For Respondents : Mr.N.Mariappan, CGC (For R1 & R4)  
Mr.N.Chandrasekaran (For R2)  
Mr.Sri Balaji (For R3)

## ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order DASA 2010/Admission/2, dated 24.12.2012 passed by the 3<sup>rd</sup> respondent and to quash the same.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2.1. The petitioner has joined B.Tech (Production Engineering) Course, (four years course), at NIT, Trichy during the year 2010. The petitioner has successfully completed 5<sup>th</sup> semester and he is in the verge of completing third year and one more year is left to complete the entire course itself. The petitioner's admission is under a scheme called Direct Admission of Students Abroad (DASA), which has been introduced only in the year 2010. In this regard, the 3<sup>rd</sup> respondent has entrusted with the National Institute of Technology, Karnataka (NITK), the 2<sup>nd</sup> respondent herein, the work of coordination of the admission process for NRI students as well as direct admission for the eligible foreign nationals under DASA scheme from the academic year 2010-11. As per the scheme, the student should have secured SAT-II Score and passed the qualifying examination and he should have studied abroad at least for three years. Admittedly the petitioner has fulfilled the above two conditions. The eligibility requirements for admission under DASA scheme as per the application form, are extracted hereunder:-

Clause 1.1.3: Eligibility: All candidates must satisfy the following academic qualifications; Candidates must have passed the qualifying examination, ie., Senior Secondary (10 + 2) or equivalent from any system of education as recognized by the Association of Indian Universities with Physics and Mathematics as compulsory subjects and any one of these as optional subjects Chemistry, Bio-technology, Computer Science, Biology and

Must have secured minimum of at least 60% aggregate marks or 6.75 CGPA on a 10 point scale or equivalent grades in all subjects of the qualifying examination.

Candidates appearing for qualifying examination with the above mentioned compulsory subjects and expecting their results by 30<sup>th</sup> June 2010 may also apply". AND Candidates should have valid SAT II (Scholastic Aptitude Test II) examination scores (subjects Maths level II, Physics and Chemistry)

1.6 Seat Allotment Procedure: Seat allotment will be strictly based on the merit (SAT II Scores only) and the choices given by the candidate, in the order of their priority.

#### 1.6.1 Preparation of Merit List:

A merit list would be drawn purely on the basis of SAT II Scores only obtained by all the eligible candidates. If the SAT II scores of two or more candidates are same, the inter se merit of such candidate shall be determined as follows By marks obtained in Math's Level 2 and then Physics in SAT II examination and then by the date of birth of the candidate (preference to older candidates) in that order.

The decision of NITK in this regard shall be final and binding on all concerned.

2-2. During June, 2010, the petitioner appeared for SAT-II exams and obtained 677<sup>th</sup> rank in the international level and thereafter, the petitioner applied for NIT's under DASA Scheme on 20.06.2010, based on the SAT score. Only after verifying the SAT-II score and other relevant certificates required as per the scheme, the petitioner was admitted by the respondents and the petitioner is also pursuing the studies. During the 1<sup>st</sup> semester, once again the petitioner was asked to show his SAT II score through internet and the college authorities, after verifying the same and having satisfied that he has obtained eligible marks in the qualifying examination, has made an endorsement in the admission register as "VERIFIED". Thereafter, the petitioner was peacefully continuing his studies. As a matter of fact, the petitioner has successfully completed 5<sup>th</sup> semester and doing his 6<sup>th</sup> semester and 3 more semesters alone were left to complete the entire course. While so, there is a CBI enquiry based on some complaints and once again the petitioner was asked to show his marks obtained through SAT-II score, school results grade certificates etc., which were also duly submitted to the concerned authorities by the petitioner. To his shock and surprise, the petitioner was informed that after enquiry, CBI has found that the petitioner was not eligible to get admission under DASA scheme and accordingly, by the impugned order dated 24.12.2012, the petitioner's Provisional Admission has been cancelled without any opportunity, that too, after a period of three years of his studies. It is further stated by the petitioner that Clause 1.6 of the application stipulates that applications would be considered on merit basis, according to which a merit list would be drawn on the basis of SAT-II Score, which requirement the petitioner had fulfilled by obtaining 677<sup>th</sup> rank in International level, and pursuant to that only the petitioner was given admission.

Hence, the petitioner has filed the present writ petition before this Court.

3. When the matter came up on 04.01.2013, this Court has granted interim stay of the impugned order.

4. Though the matter is pending from the year 2013, till date the respondents have not chosen to file any counter.

5. Today, when the matter is taken up for consideration, the learned Senior Counsel Mr. N.R. Chandran appearing for the petitioner submitted that now, the petitioner has completed his course and provisional certificate was also issued to the petitioner by the 3<sup>rd</sup> respondent; however, due to the pendency of the present writ petition, the petitioner was not issued with the consolidated marks sheet and degree certificate. In this regard, the learned senior counsel appearing for the petitioner has also relied upon the decision of this Court in the case of Arunasalam Ragenthiran Vs. The Dean (Academic), National Institute of Technology, Surathkal Srinivasanagar, Mangalore-575 025 and others in W.P.No.1 of 2013 & 35613 of 2015, date 01.12.2015.

6. Heard both sides and perused the materials available on record.

7. As contended by the learned senior counsel for the petitioner, in an identical case in Arunasalam Ragenthiran Vs. The Dean (Academic), National Institute of Technology, Surathkal Srinivasanagar, Mangalore and others in W.P.No.1 of 2013 & 35613 of 2015, by order date 01.12.2015, this court by placing reliance on the judgment of the Hon'ble Supreme Court in Guru Nanak Dev University Vs. Sanjay Kumar Katwal and another [(2009) 1 SCC 610], has allowed the writ petition. The relevant portions in the said order are extracted hereunder\_

"8. Coming to the merits of the case, it appears that substantially mistake lies with the respondents. When a student without satisfying the eligibility criteria applies, the appropriate authority is bound to look into the application, scrutinise the same and reject it at the earliest point of time. An application made without satisfying the requisite criteria per se would not amount to a fraud having been committed.

9. As of now, there is no material to hold the complicity on the part of the petitioners. The petitioner's son was given due admission by the respondents. Thus, even the respondents got a substantial role

in the entire episode and the respondents have woke up after the completion of the third year by the petitioner and passed order impugned dated 24.12.2012 without even affording an opportunity. Such an unilateral cancellation cannot be sustained in the eye of law. Certainly, the doctrine of estoppel would apply in such an eventuality. Considering the similar issue, it has been held by the Apex Court in *Guru Nanak Dev University Vs. Sanjay Kumar Katwal and another*, ((2009) 1 SCC 610, wherein the Supreme Court has taken note of a well quoted decision rendered in *Shri Krishnan Vs. Kurukshetra University*, ((1976) 1 SCC 311) and observed as under:

"20. This Court in *Shri Krishnan v. Kurukshetra University* ((1976) 1 SCC 311) has observed that before issuing the admission card to a student to appear in Part I Law examination, it was the duty of the university authorities to scrutinise the papers; and equally it was the duty of the Head of the Department of Law before submitting the form to the university to see that it complied with all requirements; and if they did not take care to scrutinise the papers, and candidature for the examinations cannot be cancelled subsequently on the ground of non-fulfilment of requirements."

10. Similarly, in the very same decision of *Guru Nanak Dev University*, by taking note of the subsequent decision rendered in *Sanatan Gauda Vs. Berhampur university*, ((1990) 3 SCC 23), the Apex Court was pleased to hold as follows:

"21. In *Sanatan Gauda v. Berhampur University*, ((1990) 3 SCC 23), this Court held where the candidate was admitted to the Law course by the Law College and the university also permitted him to appear for Pre-Law and Intermediate Law examinations, the college and the university were estopped from withholding his result on the ground that he was ineligible to take admission in the Law course.

22. Having regard to the above we are of the view that irrespective of the fact that MA (English) (OUS) degree secured by the first respondent from Annamalai University through distance education, may not be recognised as an equivalent to the Master's degree of the appellant University, his admission to the law course should not be cancelled. The appellant university is directed to treat the admission as regular admission and permit the first respondent to appear for the law examination, and if he has already appeared for the examination, declare his result. The appeal is disposed of accordingly.'

11. The ratio laid down by the Apex Court in the above said three decisions would be applicable to the case on hand. In pursuant to the interim order granted, the petitioner's son has duly completed the course. Therefore, not only the law but the equity also lies in favour of the petitioners. It is not as if the said seat can be utilised for any other student at this point of time. Thus, looking from any angle, this Court is of the view that the petitioners are entitled for the relief sought for. The petitioner's son did complete the Course successfully on merit. In other words, though it can be said that the entry of the petitioner's son into the College may not be correct, but his successful completion of the Course is based upon his performance. The respondents have also issued, though in compliance of the interim order, the provisional certificate acknowledging the completion of course by the petitioner's son.

12. Considering the above facts, particularly, when there is no contra material available against the alleged fraud said to have been committed by the petitioner's son, this Court is of the considered view that both the writ petitions are liable to be allowed."

Hence, by following the above decision, the present writ petition also deserves to be allowed.

8. Accordingly, the writ petition is allowed and the impugned order is set aside. The 3<sup>rd</sup> respondent is directed to issue the Degree Certificate along with the incidental certificates of consolidated marks sheet to the petitioner, within a period of four weeks from the date of receipt of a copy of this order, so as to enable him to pursue his further studies elsewhere.

Consequently, Miscellaneous Petition is closed. No costs.

ssv

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Dean (Academic),  
National Institute of Technology,  
Surathkal Srinivasanagar,  
Mangalore-565 025.
- 2.The Superintendent of Police,  
SPE, CBI, ACB, Chennai-600 006.
- 3.The Registrar,  
National Institute of Technology,  
Tiruchirapalli,  
Tamil Nadu-620 015.
- 4.The Secretary to Government,  
Union of India,  
Department of Higher Education,  
Ministry of Human Resource and Development,  
Shastri Bhawan, Dr.Rajendra Prasad Road,  
New Delhi-110 001.

+ 1 CC TO MR.R.VELUDAS, ADVOCATE SR 12643

+ 1 CC TO M/S.S.YASHWANTH, ADVOCATE SR 12266

KR/11/3/16

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