

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.39265 of 2016

ORDER:

Heard Mr. M. Rajender Reddy for petitioner, Mr. Jagannatha Rao for respondents 1 to 3 and Mr. M. Srikanth for respondent No.4.

2. Petitioner prays for Mandamus declaring the action of respondents in not permitting the petitioner with hall ticket No.160212733047 to pay examination fee for I semester of 4th year and issue hall ticket enabling the petitioner to appear for I semester examination scheduled from 21.11.2016 as illegal, arbitrary and refusing to exercise the discretion conferred on respondents 1 to 3, the petitioner prays for a direction to permit him to prosecute studies for 4th years BE course for the academic year 2016-17.

3. The petitioner is prosecuting Engineering Degree course in Computer Science stream in the fourth respondent college. The journey commenced with academic year 2012-2013. In May 2016, petitioner, in all, has taken up examinations in 18 subjects. On 28.07.2016, the results were declared and the petitioner cleared four backlog subjects against the 18 backlog subjects in which he has taken up the examination. Therefore, on 28.07.2016, the petitioner in all has to 14 backlog subjects. Petitioner, admittedly, applied for revaluation of answer sheets on 08.08.2016. On 29.10.2016, the University passed petitioner in four more subjects on revaluation. With the revaluation result, the petitioner has 10 backlog subjects. For I semester of 4th year, the examination is scheduled to be

commenced from 21.11.2016. The respondents did not permit the petitioner to pay the fee or take any other decision consequent to the communication dated 29.10.2016. Hence, the instant writ petition is filed for the relief referred to above. The petitioner by way of additional affidavit in WPMP.No.49085 of 2016 places on record additional material as well, I will to the extent required refer at appropriate stage.

4. Mr. M. Rajender Reddy contends that on 28.07.2016 when the results were declared, the petitioner in all had 14 backlog subjects. Since the petitioner is not satisfied with the evaluation of respondents, he applied for revaluation and on 29.10.2016 four more subjects have been cleared. By combining the results declared on 28.07.2016 and 29.10.2016, the backlog subjects of petitioner are ten (10). Therefore, the respondents ought to have allowed petitioner to take up the examination and denial of opportunity is arbitrary, illegal and unconstitutional.

5. Learned counsel for petitioner places considerable reliance on the communication dated 30.07.2014, which reads thus:

OSMANIA UNIVERSITY
HYDERABAD – 500 007

No.1079/I/Acad.I/2013

Date:30-07-2013

To
The Principal,
All Engineering Colleges of O.U.

Sub: Promotion rules of B.E/B.Tech courses-Reg.

Sir,

With reference to the subject cited, in anticipation of the approval of the Standing Committee, the University has taken a decision as follows:

Course	From	To	Number of backlogs permissible for promotion in 2013-2014
B.E/B.Tech/	I Year	II Year	Three more than stipulated
	II Year	III Year	Four more than stipulated
	III Year	IV Year	Four more than stipulated

Further, the above decision is applicable to students of B.E/B.Tech in the academic year 2013-2014 only.

You are therefore requested to take action accordingly.

Yours faithfully
Sd/-
REGISTRAR

6. Mr. M. Srikanth, appearing for fourth respondent, submits that the academic calendar for I semester of 4th years commenced on 11.07.2016 and the petitioner due to admitted backlog position till the completion of the academic session could not and did not attend the classes in the I semester. Since he has not attended even one class, the petitioner does not satisfy the requirement of minimum attendance. Therefore, the College is not at fault in refusing to process the request of petitioner for writing the exam.

7. Learned standing counsel for respondents 1 to 3 explains the purport of communicated dated 30.07.2013 by drawing the attention of the Court to the italics in the excerpted para:

“Further, the above decision is applicable to students of B.E/B.Tech in the academic year 2013-2014 only.”

According to him, the resolution given for the academic year 2013-2014 was a singular measure having regard to the circumstances prevailing then and the same cannot be extended for all academic years. Since the issue relates to the academic standards, he contends that there is not illegality or irregularity in the action of respondents in

refusing to permit the petitioner to take up examination and concludes that the jurisdiction of this Court is very limited in academic matters.

8. I have perused the material available on record and taken note of the submissions of learned counsel for all the parties. The short point for consideration is whether the petitioner is entitled to take up examinations scheduled to be held from 21.11.2016 or not.

9. The circumstances admitted can without repetition be summarily stated thus:

When the academic calendar started on 11.07.2016 on account of backlogs the petitioner has, the petitioner was not promoted from 3rd year to 4th year. The results were declared on 28.07.2016. Even with the declaration of results, the petitioner did not become eligible for promotion to 4th year. The petitioner applied for revaluation, revaluation marks were sent on 29.10.2016, by which time substantially I semester of 4th year is over.

10. The entitlement of a candidate to take up examinations is not dependant on the mere carry forward from one academic year to next academic year. It is further conditioned with the requirement that a candidate secures minimum attendance as is required in this behalf. From the admitted circumstances, the petitioner does not satisfy this requirement, as rightly pointed out by the fourth respondent college. The other document on which emphasis is laid is communication dated 30.07.2013. The communication speaks for itself that the concession given by University is restricted to the academic year 2013-2014. The case of petitioner is considered with the applicable rules for the

academic year 2016-2017. Unless and until the similar concession for the current academic calendar is placed before the Court or admitted by standing counsel, this Court is not persuaded for issuing directions to permit the petitioner to write the examination.

11. While this Court is not in agreement in the prayer of petitioner, equally baffling situation is that the University is acting in the matter without regard to the academic calendar or a semester and the advantage available to a successful student in revaluation. This Court fails to understand why two (2) months time is taken for communicating the revaluation results. If timely decision is taken this Court cannot speculate to what extent the petitioner would have stood the chance for appearing in the examination starting from 21.11.2016. At least he would have had the benefit of timely consideration. As representation dated 04.11.2016 is already made in this behalf, the University is directed to set all these things in order and see that the petitioner does not suffer on account of the commissions and omissions of respondents.

The writ petition is disposed of. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

November 18, 2016
Note: Furnish C.C. forthwith
(B/o) DSK