

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Writ Appeal No.1461 of 2016

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal is preferred against the interlocutory order passed by the learned Single Judge in W.P.M.P. No. 45684 of 2016 in W.P. No. 37074 of 2016 dated 2.12.2016 whereby the appellants herein were directed to allow the 3rd respondent-writ petitioner to pursue the III year B. Tech Petroleum Engineering course at the 2nd respondent college for the academic year 2016-2017; and to receive the examination fee for writing the subjects pending as on date and to permit the 3rd respondent-writ petitioner to write the examinations.

Sri V. Ramachander Goud, learned counsel for the appellants, would submit that the learned Single Judge had erred in holding that the appellants were relying upon a clause which was revised at the fag end of academic year 2015-2016; the regulations were amended on 9.10.2015, and the Executive council had granted approval thereto; the amended regulations were applied for the examinations held in May, 2016 more than seven months after the revised regulations came into force; the revised regulations require a candidate to secure a minimum of 34 credits in one regular and one supplementary examination for the first year, and one regular and one supplementary examination for the first semester of the second year; applying the amended regulations, the 3rd respondent-writ petitioner should have secured a minimum of 34 credits, and he had secured only 32 credits; and the learned Single Judge had erred in permitting the 3rd respondent-writ petitioner to prosecute the third year engineering course.

On the other hand Sri T. Sricharan, learned counsel for the 3rd respondent-writ petitioner, would draw our attention to the specific

assertion in the writ affidavit that the petitioner, along with some other students, had prosecuted his first year engineering course from the Adusumilli Vijaya Institute of Technology and Research Centre, which was not functioning; since the 2nd respondent (in the Writ Appeal) had vacant seats, the petitioner had submitted a letter, through the college, to the Commissioner of Technical Education to permit them to shift to the 2nd respondent-college; they had approached the 2nd respondent in the first week of July, 2015, and had submitted their consent letters for being transferred to the said college; the said application was forwarded to the Commissioner in October, 2015; there was a delay in transferring them to the 2nd respondent-college which resulted in their being denied an opportunity to appear for the first year supplementary examinations held by the end of the first semester of the second year; it is only if they are transferred officially by the Government, by issuing a G.O., would they be considered as a student of the 2nd respondent-college under the examination scheme; and, as they were not so transferred, they were continued to be shown as students of the Adusumilli Vijaya Institute of Technology and Research Centre, and not as students of the 2nd respondent-college, resulting in their losing the opportunity to appear for the supplementary examinations of the first year held by the end of the first semester of the second year; the petitioner had, thereafter, appeared for the first year supplementary examinations held at the end of the second semester of the second year; and, if the pre-amended clause were to be applied, the petitioner would be eligible for being promoted to the third year as he had secured 38 credits at the end of the second semester of the second year.

Sri T. Sreecharan, learned counsel for the 3rd respondent-writ petitioner, would further submit that, while the amended regulations permit a student to secure a minimum of 34 credits appearing in four

examinations, the petitioner had appeared only for three examinations i.e the examinations at the end of the first year and the examination and the supplementary examinations held at the end of the second semester of the second year; and the appellants were not justified in applying the amended regulation to the 3rd respondent-writ petitioner to deny him admission to the third year course.

The facts, as stated in the writ affidavit, do show that the inability of the 3rd respondent-writ petitioner to appear for the first year supplementary examinations, before the end of the first semester of the second year, was for the reasons beyond his control. If the pre-amended regulations are applied, the 3rd respondent-writ petitioner would be eligible to be promoted to the third year course having secured the minimum 34 credits. The question whether it is the pre-amended regulations, or the amended regulations which were brought into force on 09.10.2015, which are required to be applied for a student whose second year engineering course commenced much earlier, necessitates examination in the writ petition. The interim order merely safeguards the rights of the petitioner in the interregnum. Needless to state that the interim relief granted to the 3rd respondent-writ petitioner, by the order under appeal, shall be subject to the result of the writ petition.

In an intra-court appeal, under Clause 15 of the Letters Patent, interference by this Court would be justified only if the order of the learned Single Judge suffers from a patent illegality. We are satisfied that the order under appeal does not suffer from any such infirmity. We see no reason, therefore, to interfere with the interlocutory order passed by the learned Single Judge. Suffice it to make it clear that the 3rd respondent-writ petitioner's admission to the third year engineering course, and his being permitted to appear for the examinations, shall be subject to the result of the writ petition.

The writ appeal is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A. SHANKAR NARAYANA, J)

29th December, 2016
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