

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM:

THE HON 'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition No.10584 of 2017 and
W.M.P.No.11526/2017

Meyyappan Subbramanian

... Petitioner

Versus

Sri Ramachandra University
rep. by its Dean of Faculties,
Sri Ramachandra University,
Porur, Chennai-116.

.... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent in Ref.FEB/M-1/2017, dated 9.3.2017 and quash the same and consequently, directing the respondent to valuate and publish the result of the examination of the Practical and Theory subject in Obstetrics and Gynecology held in February, 2017.

For Petitioner : Mr.K.M.Vijayan, Sr. Counsel
for M/s.K.M.Vijayan Associates

For Respondent : Mr.Abishek Jenasenan

O R D E R

The petitioner is a final year M.B.B.S. student in the respondent University. He had completed 25 papers in 15 subjects and the last of Obstetrics and Gynecology was scheduled to be held on 23.02.2017 and 24.02.2017. The examination was between 10.00 a.m. and 1.00 p.m. The petitioner appeared for the examination on 23.02.2017 at 10.00 a.m. and started answering the questions. The first was Multiple Choices question paper. While answering the same, the Invigilator in the Hall saw the petitioner using the Digital Watch which was kept on the table and seized the same. Admittedly, the said watch had an internet browsing option which can be connected when there is internet facility or through Wi-Fi. The Invigilator, who had taken the watch as well as the Hall Ticket of the petitioner, after consulting other authorities, obtained a letter from the petitioner that he was browsing in the watch

and copied the answers from the same. Later, the petitioner had come with his parents and pleaded that the said device is not used for copying any material. It was, only to see the time, the petitioner had used it. However, the respondent had passed the Order dated 09.03.2017 alleging that the petitioner was in possession of the small digital wrist watch with internet access which was prohibited inside the Examination Hall. Aggrieved over the said order, the above writ petition is filed by the petitioner contending that the watch is absolutely useless without the access for internet. Even though the said watch can contain texts, it is not readable during examination. The respondent had passed the order cancelling the examination in the subject of Obstetrics and Gynecology, based on the recommendation of the Disciplinary Committee and in consultation with the Vice Chancellor.

2. The respondent University had filed a counter affidavit along with the typed set of papers. It is stated by the University that the examination in the said subject Obstetrics and Gynecology itself is an arrear examination so far as the petitioner is concerned. The question paper, which had two parts, namely, multiple choice questions to be answered in the first 30 minutes and after the MCQ answer sheet is collected, main question paper consisting of essay type and short notes type questions for the rest of the 2 1/2 hours. The instructions given to the candidates at Sl. Nos.12 and 14 specifically stated as follows:

'12. The candidate shall not carry any written/printed matter, any paper material, electronic devices, cell phone, pen drive, ipad, programmable calculator, any unauthorized data sheet/table into the examination hall or other material which is considered objectionable and if any such items are found in his/her possession at any time after entry into the examination hall, the candidate shall be liable for disciplinary action. There is no facility for safe keeping of these devices outside. The university will not take any responsibility if a candidate keeps any valuables inside/outside the examination hall.

13. ...

14. The candidate found guilty of using unfair means of any nature shall be liable for disciplinary action as per the provisions of the University Examination Manual.'

3. In addition, there was also a warning posted outside the Examination Hall stating that 'Possession of Cell Phones, any electronic devices or

incriminatory materials, by a candidate, in the Examination Hall is strictly prohibited and if any candidate found carrying of such materials would not be permitted to write the University Examinations''. When the petitioner was writing his examination on 23.04.2017, the Hall Superintendent found the petitioner keeping a Digital Wrist Watch on his table and frequently pressing the knob on the watch while answering the objective type questions. On suspicion, when the Hall Superintendent took the watch and pressed the knob, the text relating to the subject of the examination was displayed. Thereafter, the same was reported to the Chief Superintendent and reported to the higher authorities.

4. It is stated by the respondents that later the said Digital Wrist Watch was examined by one Dr.D.Ananth, in-charge of Information Technology Department of the respondent University. The Technical Report given by him revealed that the 'Huawei Smart Watch' has a colour touch of size 1.4 inches just like a smart phone and it was capable of connecting any smart phone that is available in the market and serves as a proxy for the phone itself and the technical details of the watch were also stated. Admittedly, the said watch, being an electronic gadget was specifically prohibited to be taken inside the Examination Hall and it was made known to all the candidates taking up the examinations. In spite of these specific instructions, the petitioner has taken the digital watch into the examination hall and kept it on his table, resulting the authorities cancelling the examination written by him.

5. Now the question that arises for consideration is as to whether the impugned order cancelling the examination of the petitioner in the subject Obstetrics and Gynecology can be set aside?

6. Learned Senior Counsel appearing for the petitioner contended admitting the fact that the petitioner has taken the Electronic Wrist Watch into the hall. In the instructions given to the candidates, Clause No.12 specifically states that the candidates shall not carry any written/printed matter, any paper material, electronic devices, cell phone, pen drive, ipad, programmable calculator, any unauthorized data sheet/table into the Examination Hall. The petitioner had attended the examination keeping the electronic watch in front of him and also

using the same while answering the question paper. Thus, the Invigilator in the Hall, who had found the petitioner using the Wrist Watch and copying the text from the same, on suspicion, had taken away the watch from the candidate.

7. Clause 14 of the instructions to the candidates specifically mentioned that 'any candidate found guilty of using unfair means of any nature shall be liable for disciplinary action as per the provisions of the University Examination Manual.'

8. The petitioner had given a letter dated 23.02.2017 admitting that he was in possession of the digital watch while writing Multiple Choice Questions of the Obstetrics and Gynecology paper. The same day, the invigilator one Mr.P.Seenivasan, Professor, Faculty of Pharmacy, Hall Superintendent of the respondent University had given a report through the Chief Superintendent, University Theory Examinations of the respondent University to the Controller of the Examination of the University. It is also stated by the said Hall Superintendent that the watch has displayed the relevant text with respect to 'pre-term baby age and weight calculations' and below that, the words 'pre-term verb' etc. which are the questions asked in the Multiple Choice Question Paper. The Chief Superintendent has also recommended for disciplinary action against this candidate based on the complaint. Thereafter, the matter was referred to the Disciplinary Committee dealing with malpractices in the University Examination consisting of the Dean and the Professors of the College.

9. After enquiry, the Committee had come to the conclusion that the petitioner/candidate had indulged in malpractice and he was in possession of a Huawei Smart Wrist Watch during the examination. The documents and other related papers establish that the candidate had indulged in the malpractice and it was proved beyond doubt. Hence, the Committee recommended that suitable disciplinary action in accordance with the University Examination Manual ((Appendix H) - (Part C Section III Clause 1)-S.No.7(a)) may be taken against the candidate. Based on the recommendation of the Disciplinary Committee, the Dean of Faculties issued the impugned order cancelling the examination of the petitioner in the subject Obstetrics and Gynecology.

10. Admittedly, the student is in the final year and this is the second attempt for him in the said subject. It is stated that if the student is unable to clear the paper, he has to repeat the course before he clears the same. The act of the

petitioner cannot be taken right as being a student of a Professional College, he is not expected to indulge in malpractices for the purpose of clearing the examination.

11. Though the learned Senior Counsel for the petitioner pleaded that the student had to waste one year, if he is allowed to repeat the course, the same cannot be considered very easily or dealt with sympathetically as the same would send wrong signals to the other student community. It is stated that the student was permitted to write the Part-II of the Examination on the following date. Though the examination of such subject was cancelled, both the parts were written by the candidate. Hence, the learned Counsel for the petitioner pleaded that his results may be declared by condoning his act.

12. In response, the learned Counsel for the University submitted that the results cannot be published as the valuation of the paper has not been done since the examination itself was cancelled for this petitioner. Even presuming for a moment that the petitioner had not cleared the papers by obtaining the requisite marks, he has to repeat the examination. But, in this case, the examinations were cancelled due to his own faults. The petitioner cannot be allowed to take advantage of his own wrong by directing the University to publish his results. When the petitioner has openly admitted that he has brought the watch inside the hall and the watch also contained smart materials required for writing the examination, it is a clear unfair means adopted by the petitioner to write the examination with the help of the digital watch. As the decision to cancel the examination was taken by the Disciplinary Committee and confirmed by the Vice Chancellor only after due consideration of all the materials available, the impugned order passed, cannot be set aside.

13. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VI)

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Sub Asst. Registrar

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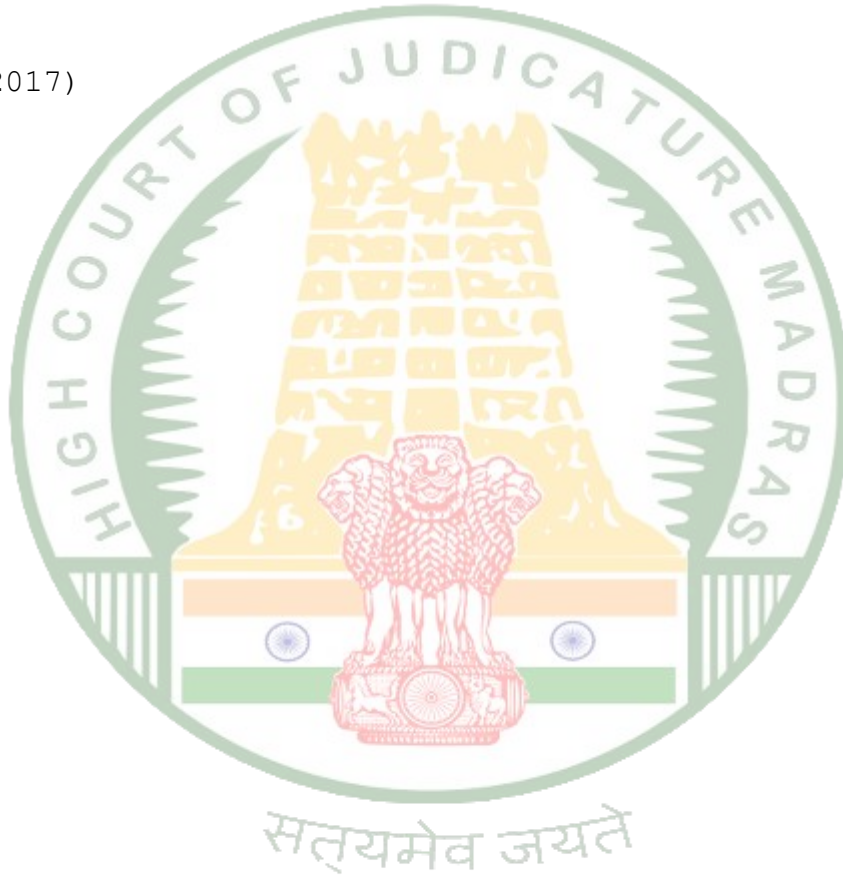
To

Dean of Faculties,
Sri Ramachandra University,
Porur, Chennai-116.

+1cc to M/S.K.M.Vijayan, Advocate Sr. 45622

W.P.No.10584 of 2017

GJII(CO)
VR(11/07/2017)



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