

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.7718 of 2017

S.Ashok Kumar

.. Petitioner

vs

1. The Secretary to Government,
Law Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 001.

2. The Director,
Tamil Nadu Legal Studies,
Purasaiwakkam High Road,
Kilpauk, Chennai-600 010.

3. The Controller of Examination,
Tamil Nadu Dr. Ambedkar Law
University, Perungudi,
Chennai-96.

4. The Principal,
Government Law College,
Coimbatore-641 046.

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to permit the petitioner to attend the 6th Semester Class, Practical Exam, Moot Court, Court Visit, Chamber Visit and write 6th Semester Examination for B.L. Degree Course in the 4th respondent college in the academic year 2016-2017 and considering petitioner's representation dated 03.03.2017.

For Petitioner : Mr.E.C.Ramesh

For Respondents : Mr.P. Sanjay Gandhi
Addl.Govt.Pleader (Education)
for R1, 2 and 4
Mr.M.Nallathambi for R3
Standing Counsel

ORDER

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to permit the petitioner to attend the 6th Semester Class, Practical Exam, Mood Court, Court Visit, Chamber Visit and write 6th Semester Examination for B.L. Degree Course in the 4th respondent college in the academic year 2016-2017 by considering the petitioner's representation dated 03.03.2017.

2. The case of the petitioner is that he joined B.L. three years full time course in the 4th respondent Law College in the academic year 2014-2015. He attended the college for the past 5 Semesters without any default and he has paid examination fee for writing the 5th Semester examinations and the hall ticket was also issued to him. But, due to illness, he could not write the 5th Semester Examinations. Thereafter, the petitioner paid tuition fee for the 6th semester examination on 12.01.2017 and a receipt was also issued for the same. While so, on 09.02.2017, when he attended the college, his name is not found in the roll of attendance. Thereafter, he came to know that his name is in the ineligible list in the 6th Semester. According to the petitioner, he never committed any irregularity or indulged in any illegal activities. Therefore, the petitioner sent a representation dated 03.03.2017 to the respondents to consider his case thereby permit him to attend the college in the 6th Semester, but, no action is forthcoming. Hence, the present Writ Petition.

3. Learned Counsel for the petitioner would contend that before removing the petitioner's name from the attendance register, no opportunity whatsoever was given to him thereby calling upon him to put forth his explanation for the same which is in violation of the principles of natural justice. Further, according to the learned Counsel for the petitioner, when the 4th respondent allowed him to write the 5th Semester examinations and issued hall ticket for the same and further accepted the tuition fee for undergoing the 6th Semester, the action of the 4th respondent in removing his name from the Attendance Register is wholly arbitrary and without any basis. Hence, a Mandamus as sought for by the petitioner has to be issued.

4. Learned Counsel for the 4th respondent college would submit that due to lack of attendance during 5th Semester, the petitioner was not allowed for 6th Semester Course as per the rules and regulations of the University. Therefore, the present Writ Petition has to be dismissed.

5. Admittedly, the facts that the petitioner was undergoing B.L. 3 year Full Time Course in the 4th respondent college during the academic year 2014-2015, his completion of 5th Semester course and not-attending the 5th Semester Examinations though Hall-Ticket was issued to him are not in dispute. The dispute is only with respect to not allowing him to pursue the 6th Semester by the 4th respondent college. According to the 4th respondent, since the petitioner has lack of attendance during 5th Semester, he was not allowed to continue the 6th Semester. But, according to the petitioner, if it is so, the 4th respondent would not have issued any hall ticket to him to appear for the V Semester Examinations though he could not appear for the same due to illness.

6. A perusal of the typed set of papers would go to show that the Hall Ticket for appearing for the 5th Semester Examinations was issued to the petitioner by the 4th respondent college. If the petitioner has lack of attendance while undergoing the 5th Semester Course, he should not be allowed to appear for the 5th Semester examinations. Here in this case, the 4th respondent has issued Hall Ticket to the petitioner to appear for 5th Semester Examinations, but, he failed to appear for the same. But, according to the learned Counsel for the 4th respondent, it is only a mistake committed by the 4th respondent, and according to the rules and regulations of the University, the petitioner cannot pursue his 6th Semester due to lack of attendance.

7. It is the well settled position of law that unless, the student has attended the requisite minimum classes, he/she cannot be permitted to write the examinations. It is only with a view to maintain standards of education. There cannot be dilution of the standards. Just because the petitioner was issued a hall ticket for appearing the 5th Semester Examination, he cannot now seek or plead that he cannot redo the 5th Semester classes, when he did not have the required attendance.

8. Though it is contended that due to illness, there is lack of attendance and the same could be condoned, it cannot be accepted because in an identical situation in C.Praveen Chander vs. The Principal, Sri Venkateswara College of Engineering, Pennalur, Sriperumbudur reported in 2006 Writ L.R. 176, this Court has held as follows:

''...As per the regulations of the University, the authorities are not empowered to condone the delay beyond the minimum required attendance of 64%. In that view of the matter, the petitioner is not entitled to sit for 7th Semester Examination.

Moreover, the relief sought for in this Writ Petition seeking to condone his absence is impermissible as any direction issued on the basis of the relief, the same would result in directing the University to act contrary to its own statute.''

9. In view of all the above, I find no merit in the Writ Petition. Accordingly, the Writ Petition is dismissed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
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