

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.24037 of 2017

&

W.M.P.No.25351 of 2017

Mr.Abeesh M.S.

... Petitioner

Vs.

- 1.The Directorate of Technical Education,
No. 53, Sardar Patel Road,
Guindy, Chennai - 600 025.
- 2.The Registrar,
Anna University,
Sardar Patel Road,
Guindy, Chennai - 600 025.
- 3.All India Council for Technical Education,
rep. by its Member Secretary,
7th Floor, Chandralok Building,
Janpath, Connaught Place,
New Delhi 110 001.
- 4.The Administrator,
Christ The King Engineering College,
Cecilia Gardens,
Onnipalayam Road,
Chickrampalayam Post,
Karamadai, Coimbatore - 641 104.
- 5.The Principal,
Christ The King Engineering College,
Cecilia Gardens,
Onnipalayam Road,
Chickrampalayam Post,
Karamadai, Coimbatore - 641 104.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 4th and 5th respondents to permit the petitioner to continue his third year degree course in "B.E. Mechanical Engineering under Registration No. 710415114001" in the college.

For Petitioner : Mr.T.Pramodkumar Chopda
For Respondents : Mr.T.M. Pappiah,
Special Government Pleader
for R1

Mr.M. Vijayakumar,
Standing Counsel for R2

Mr.B. Rabu Manohar
Senior Central Government
Panel Counsel for R3

Mr.Adinarayana Rao for R4 & R5

O R D E R

The petitioner is a student of B.E. Mechanical Engineering Course in the 5th respondent College. During the end of the second year, there was an altercation between 1st year and 2nd year students while celebrating the Hostel Day on 30.03.2017. The altercation took place in the presence of other students, warden and several staff members of the hostel and subsequently, the dispute was amicably solved. However, on the next day, a small group of first year students brought outsiders into the hostel premises and clashed with the second year students, which resulted in minor injuries to the students and again, on intervention by the Management, the problem was solved.

2. Pursuant to the above incident, the 4th and 5th respondents suspended about 30 students including the petitioner for three days and directed them to vacate the hostel. After enquiry, 6 students including the petitioner were informed that unless they seek transfer certificate and agree to vacate the hostel, they would not be allowed to write the IV semester examination. Though initially, the petitioner and others refused to give such letters, left with no other alternative, they gave undertaking letters, as per the instructions of the College Authorities. Thereafter, the petitioner and other students were permitted to write the IV semester examination, which concluded on 7th June, 2017.

3. Subsequently, the petitioner tried to approach respondents 4 and 5 to permit him to continue third year and fourth year course in the same College. However, the petitioner's attempts proved futile as he could not meet the 4th and 5th respondents. While so, the 5th respondent sent a letter along with Transfer Certificate dated 20.06.2017 intimating that original Discontinued Transfer certificate has been issued as

per the petitioner's letter dated 10.04.2017. Since the last date for submitting the request for migration or transfer to another College was 19.06.2017, as per the communication of the Director of Technical Education and the Transfer Certificate was issued to the petitioner on 20.06.2017, he could not join any other College and therefore, the petitioner has approached this Court seeking a direction to respondents 4 and 5 to permit him to continue his III year in B.E. Mechanical Engineering Course in their College.

4. Heard Mr. T. Pramod Kumar Chopda, learned counsel for the petitioner; Mr. T. M. Pappiah, learned Special Government Pleader for the 1st respondent; Mr. M. Vijayakumar, learned counsel for the 2nd respondent; Mr. B. Rabu Manohar, learned Senior Central Government Panel Counsel for the 3rd respondent and Mr. Adinarayana Rao, learned counsel for respondents 4 and 5.

5. There is no dispute with regard to the altercation between students resulting in an enquiry by the Management of the 5th respondent college. The petitioner and 5 others were asked to seek Transfer Certificate and leave the college. When a student is directed to take Transfer Certificate and join some other college, it cannot be done directly by the student and it is the College, which has to send the Transfer Certificate and other certificates directly to the transferee college within the stipulated time and in the instant case, the last date for receipt of hard copy of applications of students seeking transfer by the Office of the Commissioner of Technical Education was 20.06.2017, as per the circular issued by the Commissioner of Technical Education dated 05.05.2017 addressed to Principals of all Engineering Colleges. When that is the official communication to the Principals of all Engineering Colleges, including the 5th respondent Engineering College, the Transfer Certificate should have been directly sent to the transferee college. The relevant paragraph of the said circular is usefully extracted hereunder:

"Principals of all Engineering colleges are requested to forward applications of candidates seeking Transfer/Re-admission/Re-admission cum Transfer in Odd semesters (III, V, VII & IX) of B.E/B.Tech/B.Arch Degree Courses for the year 2017-2018."

From the above extract, it is clear that it is only the parent College, which has to forward the applications of students seeking Transfer/Re-admission/Re-admission cum Transfer and it is not the job of the petitioner.

6. Though Mr. Adinarayana Rao, learned counsel for respondents 4 and 5 would submit that the student has to choose the College to which he intends to get transferred and thereafter, make a request to the parent College for transfer,

in this case, it is not the petitioner, who sought for transfer and in fact, he wanted to undergo the course and finish the course in the same College itself. The case of the petitioner is that he was compelled to give a letter dated 10.04.2017 for transfer. If the Management of the 5th respondent College was so particular that the petitioner should go out of the College, it should have made all arrangements to see that the petitioner makes an application and goes to another College. When it is stated that the letter seeking transfer is alleged to have been given by the petitioner on 10.04.2017 and that he had not informed the College Authorities about the transferee college, the Management should have asked the petitioner through communication as to which College, he is going to join and made arrangements so that the Transfer Certificate could be sent by them directly. No such steps have been taken by the 4th and 5th respondents and they had deliberately waited till 19.06.2017, which was the last date for receipt of applications for transfer and sent the Transfer Certificate directly to the petitioner, which only goes to show that the 4th and 5th respondents were determined to give the Transfer Certificate only after 19.06.2017. If a student seeks transfer voluntarily, then the question of following the procedure as contemplated would apply. But, here is a case where the petitioner had insisted upon to continue his course in the 5th respondent College itself. Therefore, the action of the 4th and 5th respondents cannot be termed as proper and they cannot find fault with the petitioner.

7. Though this Court terms the action of the 4th and 5th respondents as improper, the petitioner's education should not get spoiled. Therefore, the 4th and 5th respondents are directed to permit the petitioner to write the arrears of IV semester in the 5th respondent College and thereafter, forward the Transfer Certificate to the College run by them in Kanyakumari District, for which they have agreed as evident from paragraph No.11 of the counter affidavit, which reads as follows:

"11. This respondent submits that the petitioner and his friend though gave an undertaking did not opt for the transfers for reasons best known to them, in fact this respondent had even offered the petitioner to take transfer to one of their Colleges either at Kanyakumari or at Sripermandur (Chennai) in order to pursue his carrier but the petitioner did not take any steps and deliberately waited till the migration period was expired."

8. In the result, the writ petition is disposed of directing the 4th and 5th respondents to permit the petitioner to write the arrears of IV semester examination in the 5th respondent college and thereafter, transfer/re-admit the petitioner to their College at Kanyakumari District so as to

enable the petitioner to continue his course from third year onwards in the said College. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

nv

To

- 1.The Directorate of Technical Education,
No. 53, Sardar Patel Road,
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+1cc to Mr.T.Pramodkumar Chopda, Advocate, S.R.No.72319
+1cc to Mr.M.Vijayakumar, Advocate, S.R.No.72242
+1cc to Mr.B.Rabu Manohar, SCGPC, S.R.No.72079
+1cc to Mr.Adinarayana Rao, Advocate, S.R.No.72153

W.P.No.24037 of 2017

MR(CO)
CA(12/10/2017)