

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.Nos.19260 of 2014 and 20956 of 2015 and
M.P.No.1 of 2015 in W.P.No.20956 of 2015

V.Harinath ... Petitioner in both W.Ps.

vs

1. The Vice Chancellor,
Pondicherry University,
Puducherry.
2. The Registrar,
Pondicherry University,
Pondicherry.
3. The Controller of Examinations-cum-
The Public Information Officer,
Deputy Registrar of Examinations,
Pondicherry University,
Pondicherry.
4. The Principal,
Pondicherry Engineering College, (PEC)
Pondicherry. ... Respondents in both W.Ps.

Prayer: Writ Petition No.19260/2014 has been filed seeking to issue a Writ of Mandamus, directing the respondents 1 to 3 to furnish the photocopy of the Answer Script/Sheets of theory subject, namely, Linear & Digital Control System and also photocopy of Answer Script/Sheets of other theory subjects of same V Semester Examination for the course of B.Tech (ECE) for comparison, forthwith or within some reasonable time frame fixed by this Court.

Prayer: Writ Petition No.20956 of 2015 has been filed seeking to issue a Writ of Mandamus, directing the respondents 1 to 3 to consider and take appropriate action on the petitioner's representation dated 04.06.2015 and there direct them not to call for petitioner for issuance of Convocation/Degree Certificate till they furnishing the photocopy of the Answer Script/Sheets of theory paper, namely, Linear & Digital Control

System (LDCS) and also photocopy of Answer Scripts/Sheets of any other theory subjects of same V Semester Examination for the course of B.Tech (ECE) for comparison in order to arrive just conclusion by neutral person.

For Petitioner : Mr.Prakash Adiapadam
in both W.Ps.

For Respondents : Mr.V.Balamurugane,
Addl. Govt. Pleader (Pondy)
for R1 to R3

COMMON ORDER

Since the petitioner and the subject matter in both the Writ Petitions are one and the same, they were heard together and they are disposed of by way of this common order.

2. According to the petitioner, after completing his schooling around July, 2009, he had joined the 4th respondent College, namely, Pondicherry Engineering College (PEC), Pondicherry through proper channel of CENTAC (Centralized Admission Committee) for the course of B.Tech. (ECE) and up to final semester in all University Examinations, his overall grade of G.P.A. is 8.9. While so, the petitioner appeared for the V Semester Examinations during November, 2011 and the provisional results were published in April, 2012 by the 3rd respondent wherein the 4th respondent had declared that the petitioner had failed in one theory subject, namely, Linear & Digital Control System. Immediately, he had applied for revaluation, but the 3rd respondent informed him that in First Valuation, he secured 19 marks and in Revaluation, he secured 20 marks, therefore, no change.

3. It is pertinent to note that on 13.07.2012, his Professor and Head of Department, namely, Dr.E.Srinivasan had written a letter to the 1st respondent to consider favourably the request of the petitioner for furnishing a photocopy of the answer script of the above stated paper to him. Since no action has been taken on the same, the petitioner was forced to make an application under RTI Act for asking them to furnish photocopy of his answer script. But, the 3rd respondent had refused either to show or provide the photocopy of the above said answer script. Aggrieved over the same, the petitioner preferred an appeal under RTI Act on 03.10.2012. Thereafter, vide Letter PU/REGR/AR/RTI/2012 dated 30.10.2012, the appellate authority had permitted the petitioner to look into his answer script, but the answer script which was shown to him is not that of the petitioner. In the meanwhile, the petitioner cleared that paper also in the second attempt and had completed the B.Tech ECE

Course in May, 2013 in First Class. But the grievance of the petitioner is that he could not get 1st class with distinction. Therefore, the petitioner sent a Legal Notice through his Advocate on 15.12.2013 to furnish photocopy of Answer Script of Theory Paper, namely, Linear & Digital Control System along with other subject papers of 5th Semester Paper for comparison with the failed paper through competent authority or expert or any neutral expert to arrive at a conclusion. Since, there was no reply for the same, the petitioner has preferred W.P.No.19260/2014 before this Court.

4. When the above W.P.No.19260/2014 is pending, the petitioner came to know that the respondent University has taken decision to issue Convocation and Degree Certificate to all students in his batch including him. If once the certificate is issued to him, the prayer in the above writ petition has automatically become infructuous. Hence, having no other option, the petitioner was constrained to submit a representation on 04.06.2015 to the respondents 1 to 3 requested them not to call for him for issuance of Convocation and Degree Certificate till they furnish the photocopy of the Answer Script/Sheets of theory subject, namely, Linear & Digital Control System. Since there was no response for the same, the petitioner has filed yet another Writ Petition in W.P.No.20956/2015.

5. A Common Counter Affidavit has been filed by the 2nd respondent, namely, the Registrar, Pondicherry University, Puducherry in both the Writ Petitions. In the said counter, after stating all the events that took place between the 2nd respondent and the petitioner, it is mainly stated that after completing his course, for the first time, the petitioner evolved a new theory in the Legal Notice in Page No.3 through his Lawyer stating that the alleged answer script shown by the authority to his client was not his answer script and finally, he was not at all agreed with the alleged answer script shown to the petitioner. According to the 2nd respondent, though the petitioner has perused the answer sheet in November, 2012, the above said new plea was raised only at the first time in December, 2013 in his legal notice after the period of seven months after completing the course. Further, following the judgment of the Apex Court in the case of Central Board of Secondary Education and another vs. Aditya Bandopadhyay and others reported in (2011) 8 SCC 497 followed in the case of Institute of Chartered Accountants of India vs. Shaunak H Satya and others reported in (2012) 1 MLJ 488 SC, the University School Board of Engineering recommended in the Academic Council meeting held on 22.11.2014 vide resolution No.2014.75.05, resolved to authorize the Vice-Chancellor to constitute a committee to study the feasibility of provision of Xerox copies

of Answer Scripts to the students. Accordingly, a Committee to study the feasibility of provision of Xerox copies of Answer Scripts to the students has been constituted and thereafter, the same was implemented. Until 22.11.2014, the respondent does not have any provision to furnish the Xerox copy of the Answer Script.

6. Further, the Academic Council meeting held on 12.09.2007 vide Resolution No.2007.55.06 resolved that 'to consider and approve the retention of answer papers of a semester (except dispute cases) till the commencement of the examination of the subsequent semester and further resolved to retain the answer scripts for one year (two semesters). Therefore, the dispute regarding the answer script with regard to the subject Linear and Digital Control System Theory Paper has come to a quietus, soon after the inspection of the said paper by the petitioner, particularly, in view of the silence and the petitioner's further appearance in the said arrears paper would automatically, absolve itself his right of agitation to the dispute. Further, as per Section 19 of the RTI Act, the petitioner has got further right of appeal before the commission. Hence, the present Writ Petitions have to be dismissed.

7. Heard the learned Counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and I have also carefully gone through the records.

8. A perusal of the records would go to show that the petitioner joined the 4th respondent College, namely, Pondicherry Engineering College (PEC), Pondicherry through proper channel of CENTAC (Centralized Admission Committee) for the course of B.Tech. (ECE) and up to final semester in all University Examinations, his overall grade of G.P.A. is 8.9. But, it is seen that in the V Semester Examinations for which results were published in April, 2012 by the 3rd respondent, the 4th respondent had declared that the petitioner had failed in one theory subject, namely, Linear & Digital Control System. But, it appears that the petitioner has secured good grade in some of the Mathematical/Analytical papers such as Mathematics-I, Mathematics-II, Mathematics-III, Numerical Methods and Techniques, Probability and Random Processes, Digital and Signal Processor and Signals and Systems. Therefore, the grievance of the petitioner is that there is some mistake in his results. Since his performance was outstanding, though there is no change in the result after revaluation, it is pertinent to note that on 13.07.2012, his Professor and Head of Department, namely, Dr.E.Srinivasan had written a letter to the 1st respondent to consider favourably the request of the petitioner for furnishing a photocopy of the answer script of the above stated paper to

the petitioner. Since the said exercise has become futile, the petitioner was forced to make an application under RTI Act for asking them to furnish a photocopy of the answer script. For that also, it appears that the 3rd respondent has not turned up. Therefore, the petitioner preferred an appeal under RTI Act on 03.10.2012. Thereafter, vide Letter PU/REGR/AR/RTI/2012 dated 30.10.2012, the appellate authority had permitted the petitioner to look into his answer script, but according to the petitioner, the answer script which was shown to him is not that of him. When the same was informed to the authorities, the petitioner was made to run pillar to post to have a look at his answer sheet. The petitioner was also with a fond hope of seeing his answer papers, obeyed all the instructions given by the respondents only to be humiliated. In this regard, though the petitioner has caused a Legal Notice through his Counsel, there is no use. In the meantime, the petitioner had completed his B.Tech. Degree including the failed subject in Linear & Digital Control System and passed in first class.

9. Now, the grievance of the petitioner is that if the answer sheets in Linear & Digital Control System written by him is shown to him, he would have definitely got distinction. The petitioner also came to know that the college is going to issue the degree by holding a Convocation. But, according to the respondents, the answer script with regard to the subject Linear and Digital Control System Theory Paper had been destroyed, soon after the inspection of the said paper by the petitioner. It is stated that after inspection of the paper, the petitioner did not raise any objection. Moreover, the petitioner's further appearance in the said arrears paper would automatically, absolve his right of agitation to the dispute. The said arguments are unacceptable. The petitioner cannot be expected to wait till the authorities show him the answer script. As he is constrained to complete his course, he had to write the exam in the said paper again. The respondent authorities cannot taken advantage of their own mistake and tide over the problem on the ground of delay. Though, it is stated that in the Academic Council meeting held on 12.09.2007 vide Resolution No.2007.55.06 resolved that 'to consider and approve the retention of answer papers of a semester (except dispute cases) till the commencement of the examination of the subsequent semester and further resolved to retain the answer scripts for one year (two semesters), the same cannot be accepted because the petitioner has taken steps from the date of issuance of the results by one way or the other. When the answer script of the petitioner was shown to him after great efforts and when the petitioner had alleged that what was shown to him was not his answer script, the dispute confirmed. Hence the theory of the respondent for not retaining the paper does not hold water.

10. It will be wholly wrong to say that the court is making a pedantic approach to the problem of this nature as it is not isolated from the actual realities and gross root problems involved in the request of the petitioner. There are provisions given by the University for such revaluation or furnishing photocopy of the answer script. It is not the case of the University that the demand of the petitioner is unworkable. This is certainly a case which shows the judicial conscience calling for interference in the Writ Petition. The destruction of the answer paper by any stretch of such imagination will not render the writ petition infructuous.

11. In view of all the above, it is clear that there is a lapse on the part of the respondents to show the original answer sheets of the petitioner to him due to which he has lost his distinction in B.Tech. In order to compensate the same, the respondents are liable to pay a cost of Rs.50,000/- (Rupees Fifty Thousand Only) to the petitioner within a period of four weeks from the date of receipt of a copy of this Order.

12. The Writ Petitions are disposed of with the above directions. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

tsi

To

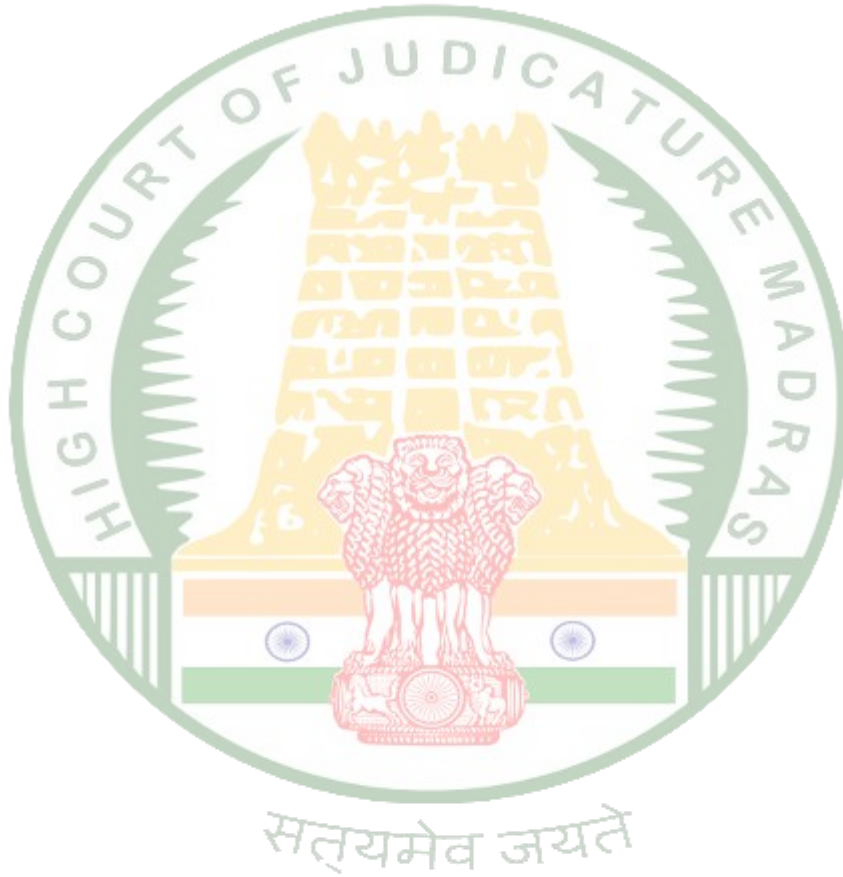
1. The Vice Chancellor, सत्यमेव जयते
Pondicherry University,
Puducherry.
2. The Registrar, WEB COPY
Pondicherry University,
Pondicherry.
3. The Controller of Examinations-cum-
The Public Information Officer,
Deputy Registrar of Examinations,
Pondicherry University,
Pondicherry.

4. The Principal,
Pondicherry Engineering College,
Pondicherry.

+1cc to Mr.Prakash Adiapadam, Advocate Sr. 45643

W.P.Nos.19260/2014 & 20956/2015

GJ(CO)
VR(13/09/2017)



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