

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2017

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.34815 of 2016
and
W.M.P.No.29972 of 2016

1. A.Aldrich Vincent
2. Dinesh Antony
3. G.Mohammed Fareed
4. Karuppasamy
5. J.Venkatesh

... Petitioners

Versus

1. Anna University
Rep by its Registrar
Chennai-600 025.
2. The Director
Centre for Academic Course,
Anna University, Chennai - 600 025.
3. The Controller of Examinations
Anna University, Chennai - 600 025.
4. The Principal
Mohammed Sathak A.J. College of Engineering
34, Rajiv Gandhi Road (OMR)
IT Highway, Siruseri
Egattur, Chennai - 603 103
5. The Controller of Examinations,
Mohammed Sathak A.J. College of Engineering,
34, Rajiv Gandhi Road (OMR),
IT Highway, Siruseri,
Egattur, Chennai - 603 103

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to issue consolidated mark statement and provisional degree certificate and degree certificate of the petitioners forthwith.

For Petitioners : Mr. S.Thankasivan

For Respondents : Mr. M. Vijayakumar for RR1 to 3

Mr. Sirjudeen, Senior Counsel for
Mr.Shaik Pareeth for R4
No appearance for R5

ORDER

This writ petition has been filed by the students, who have pursued their Post Graduate Degree in ***Thermal** Engineering in the fourth respondent college, which was affiliated to the first respondent college. According to the petitioners, they were admitted in the fourth respondent college for pursuing the two year course in the academic year 2012-2013 to 2013-2014. They have completed three semesters and they were also permitted to write the fourth semester examination. However, the petitioners were not permitted sit in the Viva-voce examination which is a project work in the fourth semester by citing lack of attendance. It was also stated that the petitioners were not present before the Internal Evaluation Review Committee on 05.02.2014 and 05.03.2014 and they did not complete the project work. Further, the new Regulations 2013 have come into force and therefore, the petitioners have to re-do the second semester afresh. According to the petitioners, they have completed the project internship and were also conferred with certificates by the respective company and it was also published in the internal journal. It is the contention of the petitioners that the period during which they were engaged in the project work in the respective company was not taken into consideration by the respondents while concluding that there was lack of attendance. According to the petitioners, they have sent many representations to permit them to attend the final viva-voce examination for project phase-II, but the respondents did not allow them to present their project works besides they did not correct the attendance record of the petitioners on the dates on which they were engaged in the project work in the respective companies. In fact, the fourth respondent sent a representation to the first respondent University recommending to allow the petitioners to be re-admitted for the final semester. In response, the second respondent by reply dated 20.04.2016 informed the fourth respondent that the petitioners does not have the minimum attendance as per the new Regulation 2013 and therefore, they have to re-do the second semester examination as per the new Regulations.

2. The learned counsel for the petitioners would contend that the refusal on the part of the respondents to issue the consolidated mark sheet, provisional decree certificate and decree certificate is unjust and arbitrary. According to the learned counsel for the petitioners, the petitioners are only governed by the old Regulations 2009 and the new Regulations introduced in the year 2013 does not have any application to their case. As the petitioners were admitted in the academic year 2012-2013, the new Regulations will not bind the petitioners in any manner. Even as per the new Regulations, it will be applicable only to the students who were admitted in the academic year 2013-2014 to 2014-2015. Therefore, by citing the introduction of the new Regulations, the petitioners cannot be deprived of their right to get the consolidated mark sheets etc., Even if the petitioners are re-admitted under the new

Regulations, they have to only complete their viva-voce examination to complete their project work and they have completed all other subjects. In any event, for no fault on the part of the petitioners, they should not be penalised. Furthermore, the fourth respondent has accepted the completion of project work by the petitioners and therefore, a recommendation was also made to the first respondent on 07.04.2016 stating that the petitioners have also subsequently completed the project work and requested to issue the mark sheets, provisional decree and decree certificate etc.,

3. In support of his contentions, the learned counsel for the petitioner relied on the judgment of the Jammu and Kashmir High Court in the case of (Shravani Sareen vs. University of Jammu and others) reported in 2015 (1) JKJ 598 (HC) wherein it was held that when technicalities and substantial justice are pitted against each other, the Court should always lean towards substantial justice. It was further held that unnecessary and avoidable technical impediments should not be introduced by virtue of interpretative process.

4. The learned standing counsel appearing for the respondents 1 to 3 vehemently opposed the prayer in the writ petition by placing reliance on the counter affidavit. It is stated that as per the Regulations of the University, the petitioners have to secure 75% of the attendance, but they did not satisfy the attendance requirement. The students who re-join the programme after break in study/prevention due to lack of attendance shall be governed by the Curriculum and Regulations in force at the time of rejoining. Even for the letter dated 07.04.2016 of the fourth respondent, the Director, Centre for Academic Courses had informed the additional courses to be taken up by the petitioners as per the new Regulations. Therefore, the learned counsel for the respondents 1 to 3 would pray for dismissal of the writ petition.

5. The learned senior counsel appearing for the fourth respondent would contend that admittedly the petitioners have completed the two years course. The petitioners were permitted to write all the semester examination. However, by citing the change in the Regulations, the petitioners were directed to re-do one subject in the second semester. The fourth respondent college has already sent necessary proposals to consider the claim of the petitioners and it is for the University to take a decision in this regard.

6. I have considered the rival submissions and perused the records. Before considering the rival submissions, by letter dated 12.09.2014, the fourth respondent college has written a letter to the first respondent, wherein it is stated as follows:-

"Some of the students of M.E. Thermal Engineering of our institution belonging to the passed out batch (2012-2014) who are listed below have not submitted the attendance certificates for their absence to the department during their period

of project work phase-II for uploading the attendance in the Anna University portla in time. In the absence of the same, the actual attendance as per our record were posted. Since their attendance percentage and internal assessment marks, were less than the minimum requirement, they were not permitted to submit their project report and attend the viva-voce examination which was held on 11.06.2014 as per the Anna University guidelines in regulation 2006.

After the viva-voce examinations, the defaulters have submitted their attendance certificate only on 18.07.2014 for their absence during the project phase-II. They wanted the college to consider the late submission and requested us to consider for permitting them to submit the report for final viva-voce examination of their project.

Since there is no course other than the project Phase II in the IV semester, it is submitted to the Unviersity for consideration and kindly do the needful for uploading their corrected attendance for conducting final viva-voce examination in the forthcoming semester as scheduled in November/December 2014."

7. It is evident from the above letter that the petitioners have belatedly submitted their attendance certificate for their absence to the department during their period of project work and it could not be uploaded in the attendance portal of the University in time. In other words, for various reasons, the petitioners could not obtain the certificate from the companies where they did their project work and it had resulted in belated submission of their certificates of absence. Further, it is clear from the above said letter that the petitioners have completed the course and have also attended all the semester examinations except the viva-voce. In such circumstances, the contentions urged on behalf of the respondents 1 to 3 that the petitioners do not secure the requisite attendance and consequently they will have to re-do the one subject in the second semester as per the new Regulations cannot be accepted. Even otherwise, the petitioners were admitted in the fourth respondent college for pursuing the two year course during the academic year 2012-2013 to 2013-2014. According to the fourth respondent, the petitioners have completed the course and they are only required to attend the viva-voce. In such circumstances, I am of the view that the objections made by the University as if the petitioners will be governed by the new Regulations 2013 cannot be countenanced.

8. In this context, by applying the decision rendered by the Division Bench of the Jammu and Kashmir High Court in (Shrivani Sareen vs. University of Jammu and others) reported in 2015 (1) JKJ 598 (HC) to this case, the objections raised by the University that the petitioners, who were admitted in the

academic year 2012-2013 to 2013-2014 are governed by the new Regulations 2013 is purely technical and they cannot be allowed to put against the petitioners. As held in the aforesaid decision, when technicalities and substantial justice are pitted against each other, the Court should always lean towards substantial justice and unnecessary and avoidable technical impediments should not be made to deprive the petitioners of their legitimate expectation to get the consolidated mark sheet, provisional degree certificate and degree certificate after having completed the course successfully. In such view of the matter, I am inclined to allow the writ petition as prayed for.

9. Accordingly, the writ petition is allowed and a Mandamus is hereby issued directing the respondents to issue consolidated mark statement, provisional degree certificate and degree certificate to the petitioners forthwith. No costs. Consequently, connected WMP No. 29972 of 2016 is closed.

Sd/-

Assistant Registrar(CS III)

Dated : 28.03.2017

***Corrected as per Order of
this Court dated 28.04.2017
made in W.P.No.34815 of 2016**

Sd/- Assistant Registrar(CS V)

Dated : 02.05.2017

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Sub Assistant Registrar

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To

1. The Registrar
Anna University
Chennai-600 025.
2. The Director
Centre for Academic Course,
Anna University,
Chennai - 600 025.
3. The Controller of Examinations
Anna University,
Chennai - 600 025.
4. The Principal
Mohammed Sathak A.J. College
of Engineering
34, Rajiv Gandhi Road (OMR)
IT Highway, Siruseri,
Egattur, Chennai - 603 103

To be Substituted to

the Order already

despatched on 13.4.17

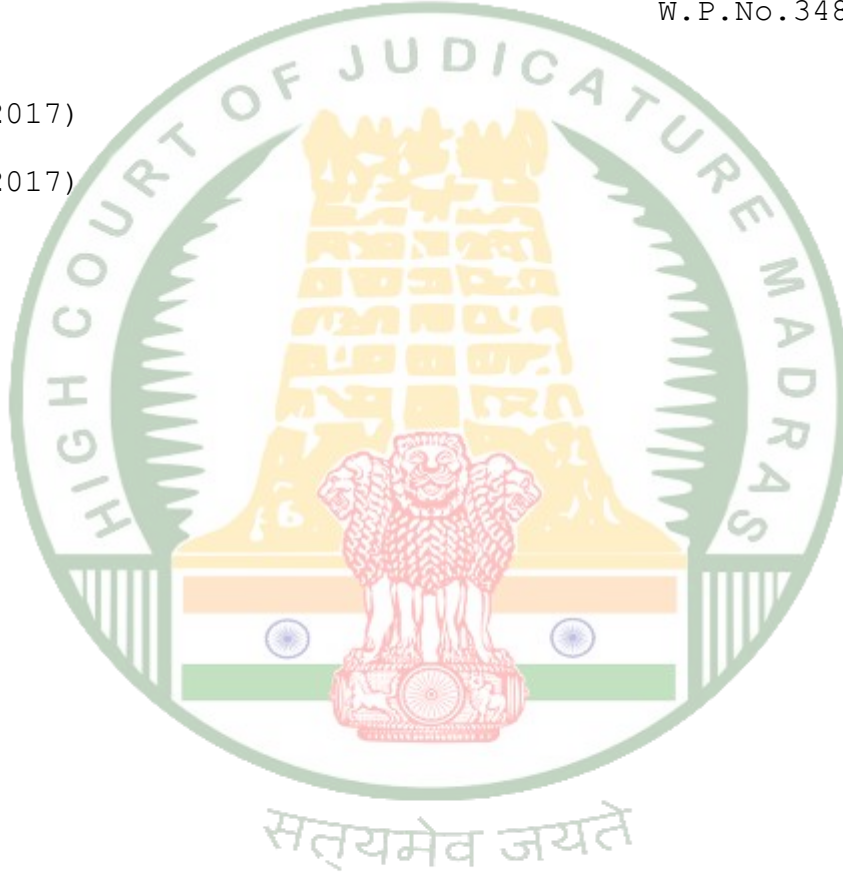
5. The Controller of Examinations,
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34, Rajiv Gandhi Road (OMR),
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Egattur, Chennai - 603 103

+1cc to Mr.V.Krishnamurthy, Advocate, S.R.No.26060
+1cc to Mr.Shaik Pareeth, Advocate, S.R.No.13775
+1cc to Mr.M.Vijayakumar, Advocate, S.R.No.13810

W.P.No.34815 of 2016

CA(CO)
CA(05/04/2017)

CA(02.05.2017)



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