**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

**WRIT PETITION Nos.40106 and 40135 of 2016**

**COMMON ORDER:**

Heard learned counsel for petitioners and learned Standing Counsel, Sri V.Ramchander Goud, for respondent University.

Since these two writ petitions are identical, this Court deems it appropriate to dispose of these Writ Petitions by way of this common order.

The only question that falls for consideration before this Court in these Writ Petitions is- "whether the petitioners can be permitted to write the examinations despite shortage of attendance?

The petitioners are III Year B. Tech Students in the third respondent college and on the ground that they had 49% and 44% respectively, the respondent university refused to permit them to write the examinations. According to the petitioners, the respondent university ought to have condoned the said shortage in view of the reasons that the petitioner in Writ Petition No.40106 of 2016 sustained injuries and fracture due to electrocution and the petitioner in Writ Petition No.40135 of 2016 met with an accident while boarding a bus and undergone consequential surgery.

On the other hand, it is the submission of the learned Standing Counsel for the respondent university that in view of the Academic Regulations of the respondent university, the request of the petitioners cannot be considered.

The relevant regulations for consideration of the issue in the present Writ Petitions are Academic Regulations for B. Tech Courses. Regulation 6 of the said Regulations deals with attendance requirements. The said Regulation reads as under:

> 6. Attendance Requirements
>
> 6.1 A student is eligible to write the University examinations only if he acquires a minimum of 75% of attendance in aggregate of all the subjects.
>
> 6.2 Condonation of shortage of attendance in aggregate up to 10% (65% and above and below 75%) in each semester or I year may be granted by the College Academic Committee.
>
> 6.3 Shortage of Attendance below 65% in aggregate shall not be condoned.
>
> 6.4 A student who is short of attendance in semester/I year may seek re-admission into that semester/I year when offered within 4 weeks from the date of the commencement of class work.
>
> 6.5 Students whose shortage of attendance is not condoned in any semester/I year are not eligible to write their end semester examination of that class and their registration stands cancelled.
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> 6.6 A stipulated fee shall be payable towards condonation of shortage of attendance.
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> 6.7 A student will be promoted to the next semester if he satisfies the attendance requirement of the present semester/I year, as applicable, including the days of attendance in sports, games, NCC and NSS activities.
>
> 6.8 If any candidate fulfills the attendance requirement in the present semester or I year, he shall not be eligible for readmission into the same class.

While dealing with the identical issues, this Court in the case of **B. Yugandhar v. Principal, Kuppam Engineering College, Kuppam, Chittoor Dist. and another**[1], while referring to the judgment of the Hon'ble Supreme Court in the case of **Ashok Kumar Thakur v. University of Himachal Pradesh**[2]**,** at paragraph 8 held as under:

> "In view of the aforementioned judgments, it must be held that the Court cannot issue a judicial fiat to the respondents to admit the appellant in I semester examination of the 4th year and thereby violate the mandate of Regulation 5 of the Academic Regulations."

In the case of **Akilesh Lumani and others v. Principal, Sir C.R. Reddy Autonomous College, Eluru**[3], the Division Bench of this Court at paragraphs 18, 19 and 20 held as under:

> "The intention of the Rule making authority making in the said Regulation is to maintain minimum standards in college education throughout the country by prescribing minimum number of lectures a student has to attend to make him eligible to appear at the examinations. The said Regulation is binding on all that Universities and Autonomous Colleges in view of Section 14 of the Act. If the said Regulation is to the interpreted as a mere guideline, as suggested by the learned senior Counsel, a College or an University can easily give a go bye to the requirement by not framing a Regulation and allow a student, who has failed to attend the lecturers even to the barest minimum, at the examinations. Thus, the very intention of the Rule making authority to maintain minimum standards of instruction will be defeated. It is one of the basic principles of statutory interpretation that a Statute/Rule should be construed, to make it effective, if possible, and an interpretation which has the affect of defeating the plain intention of the

[1] 2008(2) ALT 529 (D.B.)
[2] (1973) 2 SCC 298
[3] 2000(4) ALD 630 (D.B.)

Legislature/Rule making Authority has to be avoided. See the decisions of the Supreme Court in *C.I.T. v. S. Teja Singh, AIR 1959 SC 352* and *M. Pentiah v. Veeramallappa Muddala, AIR 1961 SC 1107.*

For the aforementioned reasons, we are of the considered view that the said Regulation is not a mere guideline but is a binding Regulation prescribing the requirement of attending 75% of lectures as a condition precedent for appearing at the examinations even though no such Rule or Regulation has been framed by the Autonomous College or the University concerned.

We, therefore, answer the question, referred to above, in the negative and hold that the appellant-students, who have failed to attend 75% of the lectures, are not eligible to appear at the final examinations on the ground that the College has not prescribed such a requirement by framing a Rule or Regulation."

In the present Writ Petitions also, as per Regulation 6.1, a student is eligible to write the university examinations only if he/she acquires a minimum of 75% of attendance in aggregate of all the subjects and as per Regulation 6.2, only the condonation of shortage of attendance in aggregate up to 10% (65% and above and below 75%) in each semester or I year is permissible by the College Academic Committee, and Regulation 6.3 in clear and unequivocal terms mandates shortage of attendance below 65% in aggregate shall not be condoned.

The petitioners admittedly had 49% and 44% of attendance respectively. Therefore, in view of the law laid down in the above

referred judgments and in view of the clear language of the Regulations, no relief can be granted in favour of the petitioners.

For the aforesaid reasons, the Writ Petitions are dismissed.

Consequently, Miscellaneous Petitions, if any pending in these Writ Petitions, shall stand dismissed. No order as to costs.

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**A.V.SESHA SAI, J**

20th APRIL, 2017.

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