

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9000 of 2018

Himalayan Edu-Care Institution,
Rep. by its Co-ordinator
Mr.Rupesh Kumar Singh,
MKS Complex, 5 Road,
Salem-636 004.

... Petitioner

Vs.

1. The Registrar,
Periyar University, Salem-11.
2. The Controller of Examinations,
Periyar University, Salem-11.
3. The Director,
Periyar Institute of Distance Education,
(PRIDE), Periyar University,
Salem-11.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the third respondent-University to consider the petitioner's representation, dated 01.02.2018 and thereby consequently direct the respondent-University to release the candidates' Mark Lists for the first and second year of calendar year batch 2016 and the academic year batch 2016-2017.

For petitioner : Dr.R.Gouri

For respondents : Mr.Godson Swaminathan

ORDER

The petitioner has come forward with the above Writ Petition praying for the issuance of a Writ of Mandamus to direct the third respondent-University to consider the petitioner's representation, dated 01.02.2018 and thereby consequently direct the respondent-University to release the candidates' Mark Lists

for the first and second year of calendar year batch 2016 and the academic year batch 2016-2017.

2. According to the petitioner-institution, on 07.09.2015, their Study Centre has been approved by the respondent-University for pursuing courses on behalf of the respondent-University. On 19.03.2017, the respondent-University has released the Examination Circular regarding the examination which was to have been held in May 2017 and also for change of venue for writing the Examination. It is further stated that on 19.05.2017, the respondent-University issued Circular to conduct Examination for Degree Courses for the students of the petitioner-Study Centre. Accordingly, the Examination has been conducted by the Study Centre under the guidance of the respondent-University. Further, on 29.08.2017, the respondent-University issued notice to the petitioner-Study Centre for payment of pending examination fees. It is the further case of the petitioner-Study Centre that their Study Centre was provisionally approved by the respondent-University, by proceedings dated 31.08.2015 for conducting Study Centre and for pursuing the Courses on behalf of the respondent-University, pursuant to which, the students were admitted to the respondent-University through the petitioner-Study Centre. One among the Study Centres of the respondent-University is at Salem with Code No.1584 for conducting Distance Education (Correspondence Course) (PRIDE). It is the further case of the petitioner that 1027 students of the respondent-University were admitted to the petitioner-Study Centre for the Under Graduate Course in the calendar year 2017, i.e. from the academic year 2016-2017.

3. It is further stated by the petitioner that they have applied through forms for 1136 students for appearing for the first and second year Examination in April 2017, along with necessary fees. The petitioner-Study Centre applied for change of the Examination Centre to conduct the Examination at R-Tech Institute of Management, Paras Mani Bazar, Kalimpong PO, Darjeeling District, West Bengal. The respondent-University consented for change of Examination Centre on 19.05.2017 and accordingly, the Examination was also conducted in the said Centre. The petitioner-Study Centre was issued with Examination Hall Tickets to pursue the exams for the first and second year Degree Course in the above Centre in May 2017 under the supervision of the University Invigilators. The student's admission list for April 2016 - academic year 2016-2017 was issued by the respondent-University and the correspondence was issued by the University by issuing the list of Examination Centre for the students admitted through the petitioner-institution. Though the Examination had been conducted by the University in May 2017, however, the University did not release the results of the Examination.

4. It is further submitted by the petitioner that the entire Examination fee and the request for change of Centre had been acknowledged by the respondent-University. The respondent-University released the results of 92 students of the petitioner-Study Centre on 27.10.2017 and 29.12.2017, but the results of the remaining students were not released by the University and it had been with-held by them without assigning any reason. It is further stated that the mark statement has also not been given by the University to the students. According to the petitioner-Study Centre, they have made a representation on 01.02.2018 to release the candidates' mark statement/mark list for the first and second year of 2016-2017 batch. Since the said representation is still not considered, the petitioner has filed this Writ Petition for the relief stated supra.

5. The respondents have filed counter affidavit denying the averments of the petitioner with regard to the change of Examination Centre, but however, admitted the fact that the Periyar University's Institute of Distance Education (PRIDE) is offering Distance Education Programmes through recognised Study Centres. The petitioner is one such recognised Study Centre with Centre Code: 1584. It is also stated that the UGC, vide Public Notice F.No.12-9/2016 (DEB-III), dated 19.07.2016 enjoined the Universities from conducting Distance Education Programmes outside the State of their location. The respondent-University, vide Circular in PU/PRIDE/UGC/Public Notice/2016, dated 20.05.2016, closed all the Study Centres in the other State/Countries and informed that no admission shall be made in these Centres for the forthcoming years.

6. Knowing the above facts, and ignoring the instructions/Circular, it is stated by the respondents that the petitioner has admitted the students from the academic year 2016-2017 onwards. The students would have taken up the Examinations at a different centre. But however, only those students who have been admitted prior to the academic year 2016-2017 in the Study Centre(s) outside the State, were permitted to sit for the examination in the respective Study Centres for the purpose of taking up the arrear examinations. After completion of the course by the students admitted prior to 2016-2017, the Study Centres have been closed down. The further contention of the respondents is that from the academic year 2016-2017, no Study Centre outside the State is permitted to offer the course (s) through the Distance Education Programmes under the Periyar University. It is further stated that the students have given an undertaking in declaration form that they will write the examinations in the allotted Examination Centre(s) in the State of Tamil Nadu and that they will attend the PCP and practical classes at the University/Study Centres in the designated places in Tamil Nadu. Totally, the petitioner-Study Centre admitted

2695 students in the year 2016-2017 for the Distance Education Programmes. After the Examination Notification for the first year examination for the students admitted in 2016-2017, 1510 application forms were received by the respondent-University from the students admitted in the petitioner-Study Centre.

7. It is further stated in the counter that after processing the examination applications, and since the fees had been paid in compliance of the instructions, the University generated Hall Tickets in the Web-site for 1510 students in relation to the petitioner-Study Centre (Centre Code 1584). The students registered under the petitioner-Study Centre were allotted the Examination Centre in Padmavani Arts and Science College for Women, Salem. The Examinations were scheduled between 25.05.2017 and 20.06.2017. From the communication received from the allotted Examination Centre, namely Padmavani Arts and Science College for Women, Salem, it is clear that none of the students from the petitioner-Study Centre admitted after 2016-2017 appeared for the Exams in the Centre and they were declared as absentees. Thereafter, along with the answer sheets received from the Study Centres located in the other States which were permitted to conduct the Examinations for students admitted before 2016-2017, the answer sheets of the students of the petitioner-Study Centre were received in the University and the dummy numbers were allotted to the answer sheets and evaluation was done. After evaluation, while processing the results, it was found by the University that the students registered in the petitioner-Study Centre wrote the Exams in the Exam Centre outside the State, instead of the allotted Exam Centre. The petitioner-Study Centre flouted the University norms and violated their declaration. Hence, the results of the students registered in the petitioner-Study Centre, were not published and for few students, the results were published unknowingly by the University and due steps are being taken to cancel it.

8. It is the further case of the respondents in the counter affidavit that the University has not permitted the change of Examination Centre from Padmavani Arts and Science College for Women, Salem to R-Tech Institute of Management, Paras Mani Bazar, Kalimpong Post, Darjeeling District, West Bengal. The declaration forms signed by the students and the petitioner show that the students have to write the Exams in Tamil Nadu Exam Centres only. The Hall Tickets were generated by indicating that the Examination Centre is in Tamil Nadu. The students or the Study Centre cannot violate the above conditions and write exams elsewhere. The Chief Superintendent of the Exam Centre sent details of the candidates in relation to their attendance of the students who were allotted to the Examination Centre. The respondent-University came to know that all the students of the petitioner-Study Centre, who were allotted to the Examination

Centre at Padmavani Arts and Science College for Women, Salem were absent.

9. As contended by the learned counsel for the respondent-University, relying on the counter, the students registered through the petitioner-Centre by violating the University norms, wrote their exams in the Examination Centre not allotted to them and thereby, fraud was played on the University and hence, they are not entitled to get their results released and they have no enforceable right for declaration of results. The respondents prayed for dismissing the Writ Petition.

10. Heard both sides and perused the materials available on record. 11. The facts are not in dispute. It is an admitted case that the petitioner-Study Centre was one of the recognised Study Centres with Code No.1584. It is also not in dispute that the students have been permitted to join the Distance Education Course, but however, the said admission of the students from the academic year 2016-2017, was not permitted. The petitioner has vehemently contended that in terms of the Circular of the University and that having received Rs.500/- for change of Examination Centre and that the declaration of results to some of the students was made and non-declaration of results to the students, who have written the Examination at West Bengal Centre, is arbitrary. It is further stated that for non-communication of the letter dated 10.05.2017 of the petitioner-institution to the Controller of Examinations of the respondent-University, the request to allow the students to write the Examination at West Bengal, was not approved. But however, the University issued Circular, whereby the list of Examination Centres have been identified on 31.01.2018 and that not only in the West Bengal, but also other States like Andhra Pradesh, Punjab, Haryana, Kerala, Himachal Pradesh, etc., have also been identified.

12. It is also not in dispute that there is payment of fees for change of Examination Centre. The contention of the petitioner may be correct, provided the students who have joined prior to 2016-2017, have been deprived of taking up the examination in the Study Centre. List of instructions given on 31.01.2018 by the University, may be applicable only to those students who have joined prior to the academic year 2016-2017 and that when there is a specific circular and prohibition that no Study Centre outside the State is permitted to offer the courses through the Distance Education programme, and any of the students who have joined the academic year 2016-2017, have no right to seek for change of Examination Centre other than the one mentioned in the State of Tamil Nadu. The list of Examination Centres mentioned in the instructions of the University, dated 31.01.2018 is applicable to those candidates

who have joined prior to the academic year 2016-2017 in order to enable them to clear the arrears of the Examination. This will not give any right to the students who have joined the course after 2016-2017 and that the petitioner-Study Centre ought not to have admitted the students from 2016-2017.

13. From the Hall Tickets produced by the learned counsel for the respondent-University in original, copy of which is also given and also the other related documents with regard to the attendance particulars produced by the respondent-University, it would make it clear that at no point of time, the request for change of Examination Study Centre of the students had been considered by the University and it was stipulated not to offer the courses from the year 2016-2017. The petitioner-Study Centre ought not to have admitted the students. Merely because the students have appeared for the Examination and that the results should be declared, cannot be a solution to the problem. When there is a fault on the part of the petitioner-Study Centre in admitting the students from the academic year 2016-2017, the declaration of results of the students who have taken the Examination at West Bengal, where the Study Centre has not been identified, would amount to giving premium for the mistake committed and that the declaration of results would amount to committing one more mistake and that two wrongs will not make the things right. The students having given the declaration, and knowing that they cannot take up the Examinations in any other Study Centre other than the one in Tamil Nadu and that payment of fee of Rs.500/- for change of allotment of Examination Centre, would mean that any one of the Centres in Tamil Nadu, can be selected by the students from one that has been originally allotted and certainly, the Centre outside the Tamil Nadu State, cannot be selected and that this was also not permitted by the University in this case.

14. As stated supra, the Examination Centres had been identified by the University by communication dated 31.01.2018 only for the students who have got arrears of the Examination and who have joined prior to the academic year 2016-2017 alone, have been permitted to take up the Examination in those Centres. I find that the relief sought for by the petitioner-Study Centre cannot be granted for the reasons stated supra.

15. Accordingly, the Writ Petition is dismissed. If any other students have taken the Course and admitted in the Course (s), it is open for those students to claim compensation from the respondent-University and merely because the results have been wrongly declared to 92 students and that steps are being taken to cancel the results, would make it clear that the students who have joined the petitioner-Study Centre from the year 2016-2017, the petitioner-Study Centre will not be entitled

to the relief and by way of abundant caution, if the results were declared for those students, it may not have any effect of holding a Degree and that Degree has no validity in the eye of law and that those students need to write the Examination again at the Centre prescribed within the State of Tamil Nadu. The statement of marks showing that the students were absent in the Study Centre in the respective Centres, have got to be produced to those students to enable them to take up the Examinations in the State of Tamil Nadu in the Centres situated in the State of Tamil Nadu. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Registrar,
Periyar University, Salem-11.
2. The Controller of Examinations,
Periyar University, Salem-11.
3. The Director,
Periyar Institute of Distance Education,
(PRIDE), Periyar University,
Salem-11.

+1cc to Dr.R.Gouri, Advocate, S.R.No.39773

+1cc to Mr.Godson Swaminathan, Advocate, S.R.No.40101

W.P.No.9000 of 2018

CS/06/07/18

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