

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6129 of 2018
and
W.M.P.No.7551 of 2018

1. A.Anitha
2. Banupriya.J
3. Bhuvaneshwari.C
4. Chitra.M
5. Jeeva.M.
6. Kavitha.A
7. Krishnaveni.R
8. Meenakshi.P
9. Nathiya.G
10. Pascamary.A
11. Punitha.S.
12. Rajarajeshwari.G
13. Rakshana.S.B
14. Sathya.P
15. Seethalakshmi.P
16. Seethalakshmi.T
17. Sivagami.S
18. Steppi.A
19. Sumathi.P
20. Vasanthamani.E
21. Yuvarani.S
22. Arunkumar.RM
23. Arun Kumar.S
24. Arunloothuraj.J
25. Ashok Kumar.P.
26. Deepanramnath.R
27. Dhandapani.N
28. Gandhi Manokaran.J
29. Gobalakrishnan.S, S/o Sundarraaj, Oddanchatghram Taluk, Dindigul District
30. Gobalakrishnan.S,S/o Sundarraaj, Vedachandur Taluk, Dindigul District.
31. Jeyaraman.M
32. Jayakannan.B
33. Karuppusamy.V
34. Kumaresan.S
35. Manikandan.S, S/o Selvaraj
36. Manikandan.S, S/o Sangar
37. Logeshkumar.P

38. Madhavan.A
39. Mahendra.G
40. Mahendran.R
41. Moorthi.K
42. Mohamed Hussain.N
43. Navin Babu.A
44. Nandakumar.M
45. Nanda Gopal
46. Ponraj.A
47. Premkumar.K
48. Rakesh.K
49. Rohit.R
50. Ramakrishnan.M
51. Singa Saravanan Vignesh.C
52. Shimananarayan.K
53. Sivaraj.NR
54. Siddaraju.N
55. Srinath.K
56. Sunilkumar.TM
57. Swinpradap.S
58. Vinothkumar.T.

... Petitioners

Vs.

1. The Tamil Nadu Physical Education and Sports University,
Rep. by its Registrar,
Vandalaur-Kelambakkam Road,
Melakottaiur Post, Chennai-600 127.
2. The Controller of Examinations,
The Tamil Nadu Physical Education and Sports University,
Rep. by its Registrar,
Vandalaur-Kelambakkam Road,
Melakottaiur Post, Chennai-600 127.
3. The Correspondent,
G.S. College of Physical Education,
Kampaliyampatti Road,
Avanashipalayam Post,
Pothiamalayam Panchayat,
Kangayam 638 701,
Tiruppur District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent herein to permit the petitioners to write their First, Third and Fourth Semester Examinations in B.P.Ed. Programme and complete the course and get certificate.

For petitioner : Mr.AR.L.Sundaresan,
Senior Counsel for Ms.AL.Ganthimathi

For respondents: Mrs.G.Thilakavathi,
Senior Counsel for Mr.R.Gopinath
for RR-1 and 2
Mr.R.Amardeed for
M/s.Thamizh Law Firm for R-3

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent herein to permit the petitioners to write their First, Third and Fourth Semester Examinations in B.P.Ed. Programme and complete the course and get certificate.

2. The case of the petitioner is that the students have joined the course in question for the academic year 2016-2017 and that even though the institution was affiliated for the academic year 2015-2016, for the academic year in question, namely 2016-2017, the affiliation fee was not remitted. The students had sufficient attendance and that they have been prevented from taking up the examinations and that the third respondent-College had approached this Court for necessary relief in W.P.No.9585 of 2017 and this Court, by order dated 21.04.2017, had passed the interim order in W.M.P.No.10546 of 2017 in W.P.No.9585 of 2017, directing issuance of Hall Tickets and to write the examinations, pending disposal of the said Writ Petition.

3. Mrs.G.Thilakavathi, learned Senior Counsel appearing for the respondents 1 and 2/University, submitted that there was no deemed affiliation as no fee was remitted before the cut-off date and that the attendance produced by the College is fabricated one. She further submitted that in the earlier round of litigation, documents have been produced as if the students have joined in July 2016, whereas the correspondences between the University to the College is very clear that the counselling took place only in September 2016, and the classes have commenced only on 12.09.2016 for 2016-2017 batch. It is also the contention of the respondents 1 and 2 that the wages/salary have been paid to the faculty by cash, which is not admissible and in any event, even going by the communication that the College has commenced the course for the academic year for the students concerned only in September 2016, there is no question of admission in July 2016. When this was pointed out, the earlier litigation was withdrawn and that there was another round of litigation by getting interim order from this Court, as stated supra, and the students are permitted to take up the

examination.

4. Learned counsel appearing for the third respondent-College submitted that the courses have commenced only in accordance with the statutory provisions and that the students have sufficient attendance and there is no reason as to how the person concerned has produced the records before this Court.

5. Heard both sides and perused the materials available on record.

6. Taking note of the fact that the students have agreed to re-do the entire course, and also in the interest and welfare of the students, the students/petitioners are permitted to re-do the course in question and take up the examinations afresh. It is also not in dispute that the respondents 1 and 2/University had not been affiliated and there is no break. As far as the documents produced before this Court are concerned, the attendance records produced with regard to the list of students who were admitted without B.P.Ed. degree during the academic year 2016-2017, are completely fabricated, and there is no reason as to why the College is trying to fool everyone and play fraud not only upon the University, but also upon the Court.

7. The communications/correspondences between the University and the College after the second Semester examination, after the first Semester was over and those correspondences show that they are trying to play fraud and fool the University.

8. Thus, for the lapses on the part of the College, the third respondent-College is directed to pay the costs of Rs.1,50,000/- (Rupees one lakh and fifty thousand only) to the parents of the recent rape victim of Ayanavaram (Chennai), by way of Demand Draft or Cheque in the name of the parents of the said victim girl. In the same way, the petitioners/58 students shall also pay costs of Rs.1,000/- (Rupees one thousand only) each, totalling Rs.58,000/- to the said victim girl, by way of Demand Draft or Cheque drawn in the name of the parents of the said victim girl. The said amounts may be used by the parents of the victim girl for her treatment and welfare.

9. With the above observations, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

After disposal of the Writ Petition on 20.07.2018, the Writ Petition is listed again today (24.07.2018) under the caption "for being spoken to".

2. It is to be noted that merely because the petitioners

have been allowed to pay the fees and participate in the sports events, that will not cure the defect. As rightly pointed out by the University, the College is willing to give admission for the academic year 2018-2019. Teaching profession is a noble profession imparting education to the students. Without registering against the sanctioned strength of the students, no course is permitted. The contention that the petitioners are permitted to do the first year course, as they have already done the second year course, cannot be accepted, as it would amount to putting the cart before the horse. Necessary Regulations/Guidelines have to be followed. The admission will be over by 31.07.2018 for the present academic year, more particularly, for the mistake committed by the College, there may be no admission for this academic year, and the petitioners/students will have to re-do the entire I year and II year courses, and as 31.07.2018 being the last date, barring the petitioners, it is open for the College to admit only remaining 42 for the academic year 2018-2019. In view of the matter pending before this Court, the candidates cannot be deprived of any benefits on the ground of age bar. 42 additional students alone shall be given admission, as there are already 58 students (petitioners herein) who are going to re-do the course. It is also stated that 73 students have been admitted this year. Barring 42, the remaining students can be placed in different colleges within the sanctioned strength.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

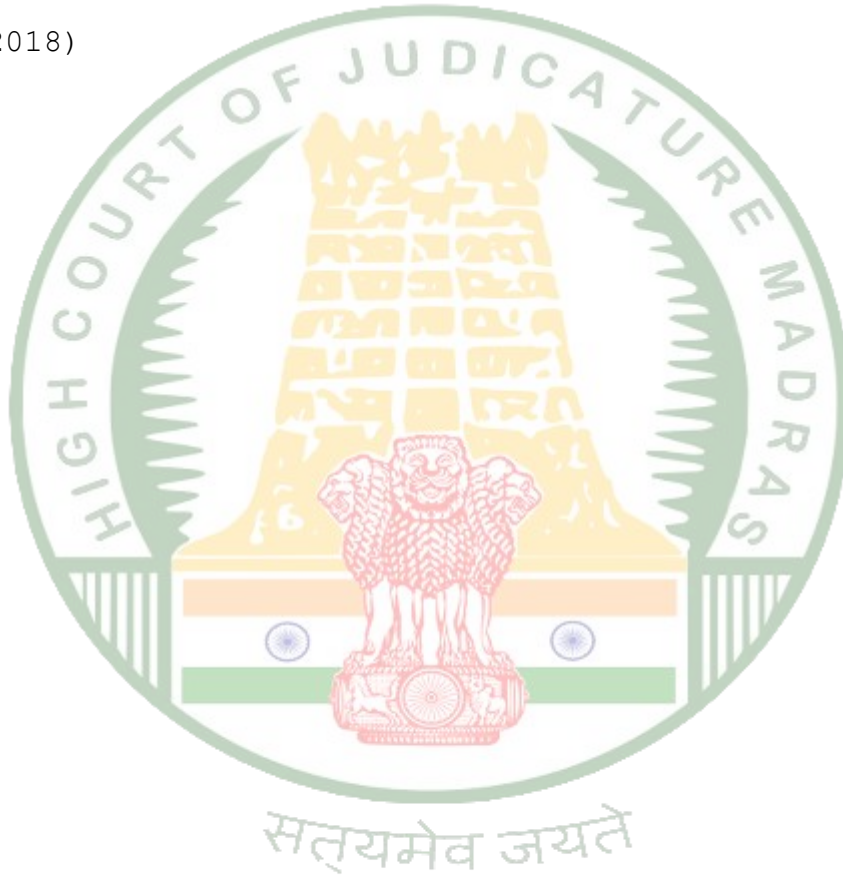
To

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2. The Controller of Examinations,
The Tamil Nadu Physical Education and Sports University,
Rep. by its Registrar,
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+1 CC to Mr.R. Gopinath, Advocate sr 49233.
+1 CC to Mrs. A.L. Gandhimathi, Advocate sr 48754.
+1 CC to Tamizh Law firm, sr 49137

W.P.No.6129 of 2018

SP (27/07/2018)



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