

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4138 of 2018

1.A.Shajakhan

2.Thoufeek Raja

.. Petitioners

Vs.

1.The Registrar,
Bharathiyar University,
Maruthamalai Road,
Coimbatore,
Coimbatore District - 641 046.

2.The Principal,
Sree Saraswathi Thyagaraja College,
Palani Road,
Thippampatti,
Pollachi,
Coimbatore District - 642 107. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for Writ of Mandamus, to direct the first respondent to consider and decide on petitioners' representation dated 20.01.2018 given to the first respondent and further direct the first respondent to allow the petitioners to complete their course of study at 2nd respondent college.

For Petitioners:Mr.S.Saravanan
For R1 :Mr.V.Selvaraj
For R2 :Mr.K.Shakespeare

ORDER

The petitioners have come up with the present writ petition for a mandamus, directing the first respondent to consider and decide the petitioners' representation dated 20.01.2018 and allow the petitioners to complete their course of study at the 2nd respondent college.

2.The case of the petitioner is that due to untoward event happened during the bus travel, the petitioners were arrayed as accused in a case in Crime No.642/2017 on the file of Udumalpet Police Station for the offences punishable under Sections 324,

294(b), 147, 148 and 506(ii) IPC. Subsequently, they availed the benefit of anticipatory bail by an order of this Court dated 28.12.2017 in CrI.OP.No.28145 of 2017. As the petitioners were involved in the criminal case, they were not allowed to pursue their course. However, the second respondent College directed the petitioners to get permission from the first respondent University to continue their course of study. Hence, the petitioners submitted a representation dated 20.01.2018 to the first respondent, requesting to seek permission to continue their course of study at the second respondent College. Since no action was taken on the said representation, the petitioners approached this Court with the present writ petition for the above stated relief.

3.The learned counsel for the petitioners submitted that the petitioners have been falsely implicated in the criminal case and they have nothing to do with the alleged offence. However, due to the registration of the criminal case, they were not allowed to continue their course of study in the second respondent College.

4.The first respondent has not filed any counter affidavit. However, the learned counsel for the first respondent produced a copy of the communication dated 04.04.2018 sent by the Registrar, Bharathiar University, Coimbatore to the second respondent College, wherein, the first respondent has stated that there is no provision under law either to intervene or issue a direction to any person by the University, who are booked under the criminal case and the students may contact the college.

5.The second respondent College has filed a counter affidavit, wherein, it is stated that the petitioners were involved in the criminal case in Crime No.642 of 2017, which is under investigation. It is further stated therein that the petitioners have not attended the College from 13.12.2017 and they have not informed about the FIR registered against them. However, a representation has been received from the petitioners seeking permission to continue their studies in the college. Reiterating the averments made in the counter affidavit, the learned counsel for the second respondent College submitted that as the petitioners were involved in the criminal case, they are bound to face the disciplinary action. The learned counsel further submitted that the petitioners 1 and 2 have the attendance of 8.6% and 11.5% respectively, out of 69 working days, till 08.3.2018 and hence, they would not be permitted to attend the ensuing semester examination and they have to redo the course.

6.Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

7.It is not in dispute that the petitioners are the students of the second respondent College. It is also not in dispute that the petitioners have been implicated in the criminal case in Crime No.642/2017 on the file of Udumalpet Police Station and they have obtained an order of anticipatory bail from this Court, which facts have not been disclosed to the second respondent College. When the petitioners were not permitted to continue their course due to their involvement in the criminal case, they made a representation, which was not considered by the respondents. Hence, this writ petition.

8.In the communication dated 04.04.2018 as referred to above, the first respondent University has taken a stand neither supporting the claim of the petitioners nor the second respondent college and they left the issue open to be settled between the petitioners and the College.

9.At the same time, the second respondent College, in their counter affidavit, stated that the petitioners do not have the required attendance for writing the ensuing semester examination and they have to redo the course.

10.I am in total agreement with the stand taken on the side of the second respondent College that as the petitioners have the shortage of attendance, they cannot take part in the ensuing semester examination and they have to redo their course of study.

11.At this juncture, the learned counsel for the petitioners gave an undertaking that the petitioners will not indulge in any such activity in future and that, they are ready and willing to redo the course and attend the college regularly.

12.Considering the age of the petitioners and taking note of the undertaking given by the learned counsel for the petitioners, this Court directs the second respondent College to permit the petitioners to redo their course and attend the examination for the particular semester. It is expected that the petitioners would complete their studies with utmost sincerity.

13.With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

rk

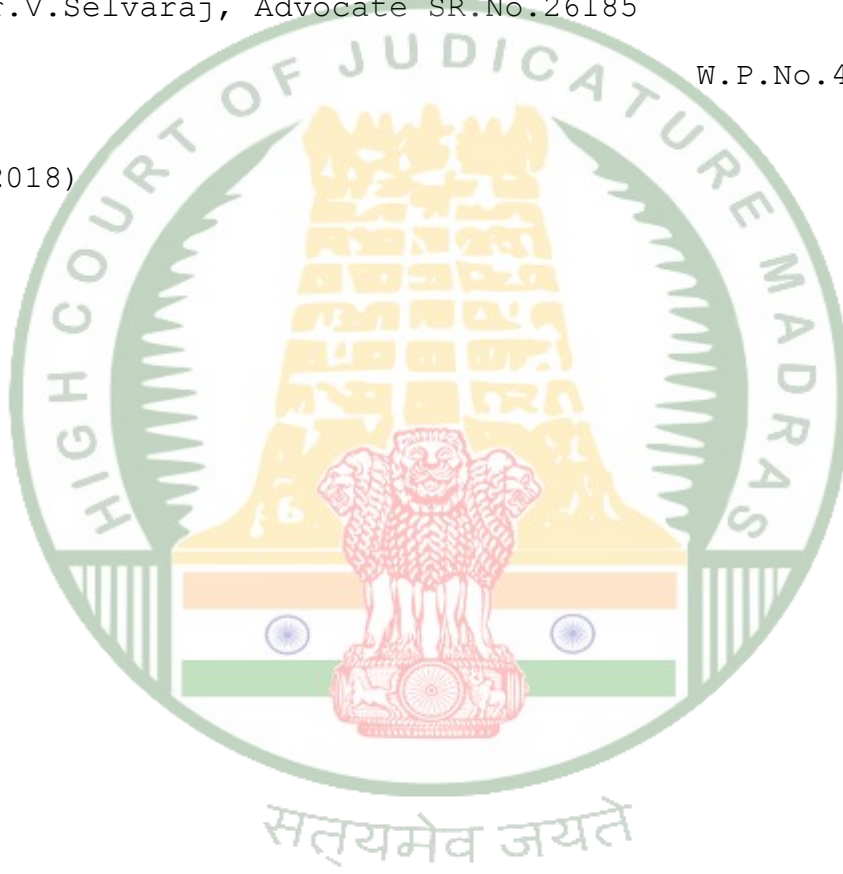
To

The Registrar,
Bharathiyar University,
Maruthamalai Road,
Coimbatore,
Coimbatore District - 641 046.

+lcc to Mr.K.Shakespeare, Advocate SR.No.26572
+lcc to Mr.S.Saravanan, Advocate SR.No.26301
+lcc to Mr.V.Selvaraj, Advocate SR.No.26185

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RR(CO)
GN(08/05/2018)



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