

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.12028 of 2011

The Director,
Director of Government Examinations,
College Road,
Chennai - 600 006.Petitioner

Vs.

1. A.Rajeswari
2. The Principal,
Ravindranath Tagore Teacher Training
Institute for Girls,
Veerachipalayam - 637 303,
Sangari-West, Salem-District.
3. The District Consumer Disputes
Redressal Forum,
District Court Campus,
Salem - 636 007. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the proceeding of the third respondent in C.C.No.54/2010, dated 25.10.2010 and quash the same.

For Petitioner: Mr.V.Annalakshmi, G.A.
For Respondents: Mr.P.Jagadesan, for R1
No Appearance, for RR2 & 3

ORDER

This Writ Petition is filed challenging the order passed by the District Consumer Disputes Redressal Forum, Salem in C.C.No.54/2010, dated 25.10.2010.

2. Heard the learned counsel for both sides and perused the materials available on record.

3. It is stated that the first respondent in this Writ Petition studied plus 2 in the Government Higher Secondary School, Jalakandapuram and she was issued with a mark sheet as if she had secured 998 marks out of 1200 marks in the Higher Secondary Examination in 2005. Thereafter, the first respondent joined DTE course in the second respondent Teacher Training Institute on 23.12.2005 under Government Quota. The first respondent completed the first year course and secured 369 marks out of 450. When the first respondent was studying in the second year DTE course, the second respondent passed an order dated 26.06.2007, terminating the first respondent from the Institution with effect from 26.06.2007 on the ground that during verification of her mark statement by the Joint Director of Public Examinations, it was found that there is variation in the total marks in the mark sheet produced by the first respondent and the aggregate marks secured by her.

4. Challenging the order of termination of the second respondent, the first respondent filed a Writ Petition in W.P.No.28504 of 2007 before this Court. In the said Writ Petition, the first respondent contended that she was not responsible for any correction made out in the mark sheet and that she produced only the mark sheet, which was issued to her. After hearing the Teacher Training Institute and other official respondents, including the petitioner herein, this Court accepted the case of the first respondent that no correction has been made by her and that she was not aware of any correction in the mark statement. The Writ Petition was allowed and the order terminating the admission was set aside.

5. The official respondents including the Writ Petitioner herein were directed to issue fresh mark sheets to the first respondent herein. Consequently, a direction was issued to the Teacher Training Institute to re-admit the first respondent for the second year course and allow her to complete the course. There was also a direction, permitting the petitioner to appear for practical and theory examination in the next DTE Examination that would be conducted by the Director of Government Examinations.

6. It is stated that as per the the detailed order passed by this Court, setting aside the order, terminating the admission of the first respondent, she completed the second year course, however results were not published by the Directorate of Public Examination. Hence, the first respondent was forced to file a complaint before the District Consumer Disputes Redressal Forum in C.C.No.54 of 2010. The District Consumer Forum by an order dated 25.10.2010, allowed the complaint and directed the second respondent therein to publish the result of the complainant immediately and to send her certificates, viz., plus two mark

sheet, first year Diploma Mark Sheet, II year Diploma Mark Sheet and Diploma Course Certificate and to pay a sum of Rs.5,000/- towards mental agony. There was also a direction giving liberty to the first respondent herein to proceed against the Official respondents under Sections 25 and 27 of the Consumer Protection Act, in case the order of the Consumer Forum is not complied with.

7. Challenging the order of the District Consumer Disputes Redressal Forum, Salem, the above Writ Petition is filed.

8. A preliminary objection was raised by the learned counsel for the first respondent stating that as against the order of the District Consumer Disputes Redressal Forum, appeal alone is maintainable before the Appellate Forum and that the Writ Petition is not an alternative remedy. Hence, the Writ Petition is not maintainable, as it was filed without exhausting the alternative remedy.

9. The learned Government Advocate appearing for the petitioner pointed out that the Consumer Forum has no inherent jurisdiction to decide the complaint, and hence the Writ Petition is maintainable against the order passed by an incompetent authority or Forum, which has no jurisdiction.

10. It is seen that the specific issue as to the jurisdiction of the Consumer Forum and the maintainability of the complaint before the Consumer Forum was conceded, in the light of the precedents. It was found by the Consumer Forum that the University is expected to declare the result of the examination within a reasonable period of time and if it declares after 10 years, there is a deficiency in service. The conduct of the petitioner in this case is more important.

11. It is not in dispute that the only issue that arose for consideration in the earlier Writ Petition in W.P.No.28504 of 2007 filed by the petitioner therein / first respondent herein, was, whether the first respondent was properly admitted in the second respondent Institution. After considering the facts of the case, a positive direction was given in that Writ Petition on merits, which is binding on the petitioner herein and his subordinates. Despite the order of this Court, they have not published the result of the first respondent.

12. Before the present Writ Petition was filed before this Court, there was a specific direction to issue fresh mark sheets to the first respondent herein, after setting aside the order terminating the admission of the first respondent. The petitioner has now filed this Writ Petition in utter disregard

to the order of this Court thinking that the issue once settled by this Court in the earlier round of litigation, can be re-agitated.

13. Having regard to the findings rendered in the earlier round of litigation, the petitioner's contentions in this Writ Petition have no merits. In that view of the matter, the direction of the Consumer Forum to the petitioner herein to pay a sum of Rs.5,000/- towards the mental agony suffered by the first respondent, is justified.

14. This Writ Petition is pending from 2011 and it is stated that the petitioner herein has not published the results of the examination written by the first respondent and hence the object of this Writ Petition is to circumvent the earlier order of this Court. Hence, this Court is inclined to dismiss the Writ Petition with costs of another Rs.5,000/- payable to the first respondent. Accordingly, the petitioner is directed to publish the examination results of the first respondent forthwith and issue course certificate in due course along with further costs of Rs.5,000/-.

15. With the above directions, the Writ Petition is dismissed with costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Principal,
Ravindranath Tagore Teacher Training Institute for Girls,
Veerachipalayam - 637 303,
Sangari-West, Salem-District.
2. The District Consumer Disputes Redressal Forum,
District Court Campus,
Salem - 636 007.

+ 1 cc to Mr.P. Jagadeesan, Advocate Sr.63246
+ 1 cc to Mr. Government Pleader Sr.63424

W.P.No.12028 of 2011

br(CO)
EU(03/10/2018)