

In the High Court of Judicature at Madras

Reserved on

11.09.2018

Pronounced on

01.10.2018

Coram:

The Hon'ble Mr.Justice M.VENUGOPAL

and

The Hon'ble Mrs.Justice S.RAMATHILAGAM

W.A.No.1159 of 2018 and

C.M.P. No.9313 of 2018

1. S.Megharaj
2. M.Sundharapandian
3. K.Sarath Kumar ..Appellants

Vs.

1. Anna University,
represented by its Registrar,
Guindy, Chennai - 600 025

2. The Director,
Centre for Academic Courses,
Anna University,
Guindy, Chennai - 600 025

3. Sree Narayana Guru Institute
of Management Studies,
Palakkad Main Road,
K.G.Chavadi,
Coimbatore - 641 105 ..Respondents

Prayer: Writ Appeal filed under Clause 15 Letters Patent Act against the order made in W.P.No.9291 of 2018 dated 26.04.2018 by the Writ Court.

For Appellants : Mr.Muthumani Duraisami
Mr.Kandhan Duraisami

For Respondents : Mrs.Narmatha Sampath
Additional Advocate General
Assisted by Mr.M.Vijayakumar
Senior Counsel for R1 and R2
Mr.V.V.Vijayarajan for R3

J U D G M E N T

M.VENUGOPAL, J.

Heard the Learned Counsel for the Appellants and the Learned Counsel for the Respondents.

2. The Appellants / Petitioners have preferred the instant Intra- Court Writ Appeal [as an aggrieved persons] against the Order dated 26.04.2018 in W.P.No.9291 of 2018 passed by the Learned Single Judge.

3. Earlier, the Learned Single Judge while passing the Impugned Order on 26.04.2018 in W.P.No.9291 of 2018 [filed by the Appellants as Writ Petitioners] at Paragraph Nos.7 to 11 had observed the following:

□7. For better understanding, Clause 1(iii), 5.1 and 14.2 of the Anna University Regulations, 2017 and the definition of □Course□ are extracted below:-

1 (iii) □Course□ means Theory or Practical subject that is normally studied in a semester, like Applied Mathematics, Advanced Thermodynamics, etc.

5.1. The Institution is responsible for registering the courses that each student is proposing to undergo in the ensuing semester. Each student has to register for all courses to be undergone in the curriculum of a particular semester(with the facility to drop courses to a maximum of 6 credits (vide clause 6.5). The student can also register for courses for which the student has failed in the earlier semesters. In such cases the student shall do reappearance registration for those courses for which the attendance requirement is not compulsory. However, the student have the option to take up some other professional elective or open elective that he has failed to pass. But, the total number of credits that a student is allowed to register per semester cannot exceed 36. The registration details of the candidates may be approved by the Head of the Institution and forwarded to the Controller of Examinations. This registration is for undergoing the course as well as for writing the End Semester Examinations. No course shall be offered by any department of any institution unless a minimum 5 students register for the course.

14.2. If a student fails to secure a pass in a theory course (except electives), the student shall do reappearance registration for that course in the subsequent semester, when offered next earn continuous assessment marks and attend the end semester examination.□

8. Heard the learned counsel appearing for the parties and perused the materials available on record.

9. A reading of Clause 5.1 of the Anna University Regulations, 2017 makes it clear that the student will have to register for all courses, for which minimum number of students required is 5. It is stated that the student can also register for courses for which the student has failed in the earlier semesters. In such cases, the student shall register his re-appearance for those courses, for which, attendance is not compulsory. It is nowhere stated that the Petitioners would be prevented from taking up examinations. Even though it has been stated that the Petitioners would take up examinations as and when the other students appears for the examinations, it would mean that the Petitioners will take up the arrear examinations in the failed subjects, either in the odd-semester or in the even-semester, as the case may be.

10. The contention of the Petitioners that the students, who failed in odd semester subjects shall be permitted to take up another examination during the examinations scheduled for even semesters would amount to the Court imposing conditions, which are not contemplated in the Regulations.

11. From a reading of the entire provisions extracted supra, it is very clear that □Course□ means the subject that is going to be taught, for which the minimum number of students of five is required and not for taking up of examination.□

and disposed of the Writ Petition with the aforesaid directions and observations.

4. The Learned Counsel for the Appellants brings it to the notice of this Court that M.B.A. is two

years programme comprising of four Semesters with a total of 86 Credits for awarding the Degree and the same is as under:

Semester

Papers

Credits

I

7 Core Subjects + 1 Employability Enhancement Courses [ECC]

25

II

7 Core Subjects + 1 EEC

24

III

2 Core + 6 Electives + 1 EEC

25

IV

Full Time Project

12

5. Assailing the Correctness, Validity and Legality of the Order passed by the Learned Single Judge in W.P.No.9291 of 2018, the Appellants have preferred the present Writ Appeal contending that Clause 5.1 of the Post Graduate Regulations, 2017, which stipulates the requirement of minimum of five students to register for the courses for writing the examinations is against the AICTE Approval and the University Affiliation, since there is no such stipulation of minimum of five students.

6. The Learned Counsel for the Appellants submits that the Learned Single Judge had failed to appreciate the Clause 5.1 and 14.2 of the Regulations are contrary to each other, in view of the fact that Clause 5.1 allows the students to reappear / register for the Core Courses failed in the earlier Semester[s], for which attendance requirement is not compulsory. However, Clause 14.2 allows the students for reappearance / registration in the subsequent semester only when offered next.

7. The Learned Counsel for the Appellants proceeds to point out that Clause 14.3 of the Regulations, which deals with professional elective courses allows reappearance registration in the subsequent semesters with requirement of attendance. Furthermore, it is represented that if Third Semester is taken into consideration the student writes both Core Paper and Elective Paper, in case of failure for core paper, he has to wait when offered next, whereas, for the Elective Paper, he can register / write in the Next Semester itself. Apart from that, there is an attendance embargo for elective subjects where there is no embargo for core subjects and the Learned Single Judge had failed to appreciate this aspect, which is a clear case of discrimination.

8. Yet another contention of the Learned Counsel for the Appellants is that because of the odd and even system is to be followed, if there is an arrear in the First Semester, the student only gets one chance of reappearance that too in the Third Semester. If there is an arrear in the Second Semester, the student is given one opportunity only that too in the Fourth Semester. Moreover, if there is an arrear in the 3rd Semester, the student cannot complete his studies in two years, but, he has to wait for one more year even to take his arrear examination. As a matter of fact, the problem would become more complicated for the Appellants, who are prosecuting the studies by availing Education Loans.

9. The Learned Counsel for the Appellants projects an argument that the Learned Single Judge had failed to see that introduction of ceiling of 36 Credits per semester is causing immense hardship to the students.

10. Added further, the contention of the Learned Counsel for the Appellants is that the projected object of flexibility to drop courses, vide Clause 5.2.2 remains only on paper and is not at all given

effect by the University, in view of the contradictory clauses mentioned in the Regulations, 2017.

11. The Learned Counsel for the Appellants further submits that Anna University conducted First Semester PG Arrear Examination during June, 2018 for few courses only on a pick and choose basis, contrary to their own PG Regulation 2017 and contrary to their stand before the Learned Single Judge. Further, it is represented on behalf of the Appellants that preferential treatment to M.E. PG Programme vis-a-vis M.B.A. Programme is causing grave prejudice to MBA students like them.

12. The Learned Counsel for the Appellants points out that as per Clause 6.3 of the Regulations, in case of failure in Project Work, Regulation permits the student to submit the project within 60 days of the Publications results. Further, the Learned Counsel for the Appellants refers to the Clause 14.5 of the Regulations of which allows the students to submit the project, in case of failure only when offered next [next year]. That apart, the Learned Counsel for the Appellants adverts to Clause 14.7 of the Regulations, which permits the students to submit the project, in case of failure, in next semester itself and puts forward a plea that there are manifest discrepancies.

13. The Learned Counsel for the Appellants points out the Clauses 14.2, 14.3 and 14.4 of the Regulations, which reads as under:

□ Clause 14.2 : If a student fails in Professional Core, he can appear for the exam only when offered next [next year along with the junior students]

Clause 14.3 : If a student fails in Professional Elective, he can appear for the exam in the subsequent semester itself.

Clause 14.4 : For a lab course, if a student fails to secure a 'pass' the student shall register for reappearance next year along with the junior students.□

and contends that preferential treatment for reappearance is given to Professional Core, Professional Elective, Laboratory Course and Project Work.

14. In this connection, the Learned Counsel for the Appellants submits that both the Professional Core and Professional Elective carry equal credits, which defies any logic for anybody to understand the reason behind any discrimination. The Learned Counsel for the Appellants brings it to the notice of this Court that as per Clause 5.2.2 of the Regulations, from the Second to Final Semester, the student has the option of dropping existing courses not exceeding 6 credits. But, this facility was not extended in the Web Portal in the just concluded 2nd Semester [May 2018] exams.

15. The Learned Counsel for the Appellants contends that as per Clause 3.9 of the Regulations, the students are permitted to take one Online Course in lieu of one Professional Elective Course, which carry a maximum of three credits etc., But the Appellants, who are already in the Third Semester and have to pursue Elective Subjects, but, there is no such list of Online Courses made available by the Centre for Academic Courses, so far.

16. The Learned Counsel for the Appellants submits that present Vice-Chancellor of the 1st Respondent / University had accepted honestly in his interview to the Times of India Newspaper [published on 4th August, 2018], wherein he had conceded the fact that such uncalled for practices paved the way for malpractices and should be discontinued.

17. The Learned Counsel for the Appellants submits that the All India Council of Technical Education [Apex Body] granted approval through an order dated 04.04.2018 to the 3rd Respondent / Sree Narayana Guru Institute, Coimbatore for conducting M.B.A. Programme without restriction of

minimum number of students for Course Registration / for Writing Examination [including arrear examination]. Further, the 1st Respondent / Anna University granted Permanent Affiliation through Order dated 03.04.2017 to the 3rd Respondent / Sree Narayana Guru Institute, Coimbatore for conducting M.B.A Programme without restriction of minimum number of students for Course Registration / Writing Examination including arrear examination.

18. The contentions of the Appellants is that Clause 5.1 of the Regulation, 2017 illegally insists of minimum of 5 students for Course Registration / for Writing Examination is arbitrary one and contrary to the approval granted by the AICTE / Anna University.

19. The Learned Counsel for the Appellants submits that the Regulations, 2017 Choice Based Credit System and Structure of Programmes are formulated only for Institutions providing Multiple PG Programmes and the same does not cover the stand alone Business Institutions like the 3rd Respondent, wherein the Appellants are studying. Moreover, there is no other PG Programme is available in stand alone Institution.

20. In response, the Learned Additional Advocate General for the Respondents 1 and 2 submits that the PG Programme Regulation, 2017 [CBCS] was not suddenly introduced in the Academic Year 2017-2018 and in fact, the Stakeholders, viz., Teachers and Alumini were concerned in the deliberations for framing Regulation, 2017 [CBCS] through the Syllabus Sub-Committee and Board of Studies well ahead of finalising the Regulation 2017 [CBCS]. The Learned Additional Advocate General for the Respondents 1 and 2 submits that by following the guidelines of University Grants Commission and AICTE, a Regulation, 2017 [CBCS] for PG Programmes has been prepared by the Board of Studies and approved by Academic Council of Anna University. Further more, it is represented on behalf of the Respondents 1 and 2 that Clause 5.1 of the Regulation speaks of 'Course Registration', it can be done by a minimum of five students.

21. The Learned Additional Advocate General for the Respondents 1 and 2 comes out with a plea that the Clauses 5.1 and 14.2 of Regulations [CBCS] are contradictory and for example, if a student has to reappear in a Core Course, he / she can do so when offered next. However, if a student has to reappear in an Elective Course he / she can do so even in the subsequent semester, if offered with a minimum of five students registering for the same.

22. The Learned Additional Advocate General brings it to the notice of this Court that as per Clauses 6.3 and 14.5 of the Regulations, 2017, if a candidate fails in the project work, then, he / she can reappear when it is offered next and further that the candidate is evaluated in two sets, viz., [i] Internal Assessment and [ii] End Semester Examinations. Apart from that, if a candidate fails to secure 50% of the Internal Assessment he / she has to re-enroll in the subsequent semester. Besides these, if a candidate fails in the End Semester Examinations, then, he / she shall resubmit the project report within 60 days of the results and subsequently, 'Viva Voce' Examination will be conducted and the same is considered as 'Re-Appearence'. Hence, it is represented on behalf of the Respondents 1 and 2 that both in 'Internal Assessment' and 'End Semester' Examinations, the candidate need not wait till the Project Work is offered next.

23. The Learned Additional Advocate General for the Respondents contends that the Regulations, 2017 [CBCS] fixed a ceiling of 36 credits per Semester is only to help the candidates, who have accumulated in numerous subjects for re-appearance where the candidate can clear all of them in stages, but not in one attempt, thereby enabling them to complete the 'Degree' within the prescribed time.

24. The Learned Additional Advocate General for the Respondents 1 and 2 points out that the Regulations, 2017 [CBCS] has a provision for Dropping Courses up to 6 Credits, which can be always availed by the candidates. Continuing further, the Regulations, 2017 [CBCS] is common to all PG Programme, viz., M.E/ M.Tech, M.C.A and M.B.A. of all Engineering Colleges affiliated to Anna University, Chennai. Also that, the PG Programme Regulations, 2017 [CBCS] was a well prepared and drafted after entering into discussions / suggestions / updations by the Committee Members at different levels [Syllabus Sub Committees, Board of Studies, Standing Committee and Academic Council] and ultimately, was presented and approved by Syndicate. The process of preparing the Regulations, Curriculum and Syllabi were commenced in the year 2016 and after the year in 2017, it was introduced.

25. The Learned Additional Advocate General for the Respondents 1 and 2 emphatically contends that once in every four years, 'the Regulations, Curriculum and Syllabi' are revised and updated to meet the challenges and opportunities of various fields of Engineering and Technology. The 1st Respondent / Anna University had introduced the Choice Based Credit System, which is different from the earlier non CBCS Regulations and therefore, no comparison can be done so.

26. It is the submission of the Learned Additional Advocate General for the Respondents 1 and 2 that the arrear examinations are held as per Schedule given by the 2nd Respondent / Director, Centre for Academic Courses and as per Regulations, 2017. That apart, the Apex Body of the University taken a decision after taking into account various facts. In fact, the 1st Respondent / University is the Autonomous body, which is collecting a nominal fee considering various expenses connected with the valuation process, which cannot be assailed by the Appellants.

27. The Learned Additional Advocate General for the Respondents 1 and 2 draws the attention of this Court to the fact that the University in its Notification dated 24.08.2017 barred the students to write their arrear examinations, who had exceeded their maximum period of duration allowed, as per the Regulations to write their examination. Further, based on the so many representations addressed to the Government and the University by the Parents and Students to consider the decision taken by the University to debar the students to write their arrear examination, the State Government took a lenient view and directed the University to give two more chances for these students and the 1st Respondent / University through its Notification dated 09.11.2017 had permitted the students to write their arrear examination only for two semesters, as a special case [February 2018 and August 2018]. In short, this concession was given on Humanitarian consultation by the University and not for any private motive.

28. The Learned Additional Advocate General for the Respondents submits that the Regulations, 2017 [Choice Based Credit System] for PG Programme, 2017 is only 'Prospective in Nature' and further, it is represented that the said Regulations will not apply to earlier students. By way of reply, the Learned Counsel for the Appellants contends that the Appellants are not assailing the Regulations, 2017, but, in the Writ Petition, they have prayed for considering their Representations dated 22.03.2018 in rectifying the discrepancies in the Regulations, 2017 so as to enable to complete their M.B.A. Programme within a stipulated time.

29. At the outset, this Court relevantly points out that a 'Writ of Mandamus' can be granted only in a case where there is a statutory duty imposed upon an Officer Concerned and there is a failure on his part to perform that duty, as per decision of Hon'ble Supreme Court reported in AIR 1954 SC 217 [Vice Chancellor, Utkal University and Others V. S.K.Ghosh and others].

30. It is to be remembered that in a proceeding for a 'Mandamus', the Court never sits as a 'Court of Appeal', so as to examine the Facts or to substitute its own wisdom for the discretion vested by 'Law' in a person or body against whom the 'Writ' is sought for.

31. At this juncture, this Court worth recalls and recollects the decision of Hon'ble Supreme Court Chandigarh Administration and Others V. Manpreet Singh and Others reported in (1992) 1 Supreme Court Cases at Page 380 at Special Page 392 wherein at Paragraph Nos.17 to 21 it is observed as under:

¶17. Coming to SLP No.16065 of 1991, the position appears to be even worse. Without assigning any reason the High Court has directed that category 4 should be category 5 and category 5 should be made category 4. In short, it has switched these two categories. Again, we must say that if the High Court thought that this categorisation was discriminatory and bad it ought to have struck down the categorisation to that extent and directed the authority to re-frame the rule. IT would then have been open to the rule-making authority either to merge these two categories or delete one or both of them, depending upon the opinion they would have formed on a review of the situation. We must make it clear again that we express no opinion on the question of validity or otherwise of the rule. We are only saying that the High Court should not have indulged in the exercise of 'switching' the categories ¶ and that too without giving any reasons thereafter. Thereby, it has practicably assumed the role of rule-making authority, or, at any rate, assumed the role of an appellate authority. That is clearly not the function of the High Court acting under Article 226 of the Constitution of India. Now, let us notice the implications and consequences of the said 'switching'.

18. By directing that category 4 should be treated as category 5 and conversely category 5 should be treated as category 4, the High Court has prejudicially affected the rights of candidates falling under category 4 without even hearing them. It must be remembered that these categories are mentioned in the order of priority as emphasised hereinbefore. A rule-making authority need not observe the rule of hearing, but the High Court exercising its judicial power cannot dispense with the requirement and that is precisely the grievance of the petitioner in SLP 16451 of 1991 arising from C.W.P.No.14606 of 1991. He was entitled to be considered under category 4 [as per the prospectus] whereas by virtue of the High Court's order his category has become category 5, the result of which is that no seat may be left for his category, whereas the said category was entitled to some seats at least according to the rules as framed and published by the Administration and College. Suffice it to say that in giving the said direction, while the admissions were in progress, the situation has been confounded beyond recall.

19. Article 226 of the Constitution of India empowers the High Court to issue to any person or authority [including the government] directions, orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them for the enforcement of any of the rights conferred by Part III and for any other purpose.

20. Though the article itself does not contain any restrictive words, the courts have, over the years, evolved certain self-constraints though, we are not bound by the procedural technicalities governing these high prerogative writs in English Law. As observed by a Constitution Bench in T.C.Bassappa V. T.Nagappa (1955) 1 SCR 250 [SCR P.256]

In view of the express provisions in our Constitution we need not now look back to the early history or the procedural technicalities of these writs in English law, nor feel oppressed by any difference or change of opinion, expressed in particular cases by English Judges. We can made an order or issue a writ in the nature of certiorari in all appropriate cases and in appropriate manner, so long as we keep to the broad and fundamental principles that regulate the exercise of jurisdiction in the matter of granting such writ in English Law'

21. While this is not the place to delve into or detail the self constraints to be observed by the courts while exercising the jurisdiction under Article 226, one of them, which is relevant herein, is beyond dispute viz., while acting under Article 226, the High Court does not sit and / or act as an appellate authority over the orders / actions of the subordinate authorities / tribunals. Its jurisdiction is supervisory in nature. One of the main objectives of this jurisdiction is to keep the government and several other authorities and tribunals within the bounds of their respective jurisdiction. The High Court must ensure that while performing this function it does not overstep the well recognised bounds of its own jurisdiction.¶

32. Further, this Court cites the decision of Hon'ble Supreme Court Mahesh Kumar K. Parmar and Others V. S.I.G. of Police and Others reported in [2002] 9 Supreme Court Cases at Page 485 wherein it is held that 'In the absence of an Enforceable Legal Right, no Mandamus can be asked for.'

33. Apart from the above, this Court points out that in the decision of Hon'ble Supreme Court in Director of Settlements, Andhrapradesh and Others V. M.R.Apparao and Another [2002] 4 SCC at Page 638, it is held that 'the Existence of Legal Right and Obligation of Public authority to fulfill the same on the date of petition are conditions precedent to pray for a Writ of Mandamus'.

34. Besides the above, in the decision of Hon'ble Supreme Court in the State of Mysore and another V. Syed Mahmood and others AIR 1968 SC Page 1113, it is held that when an Administrative Authority has a duty to exercise the discretion or power, but has failed to exercise it, the Court cannot issue a 'Mandamus', either directing the Authority to make the order in exercise of discretion in any particular direction.

35. More importantly, this Court cites the decision of Hon'ble Supreme Court in the University of Mysore and Another V. C.D.Govinda Rao and Another reported in AIR 1965 SC at Page 491 at Special Page 492 wherein it is observed as under:

□Where one of the qualifications for the appointment to the post of a Reader in the University was that the applicant should possess a First or High Second Class Master's Degree of an Indian University or an equivalent qualification of a foreign University, the candidate should possess a First Class Master's Degree of an Indian University or High Second Class Master's degree of an Indian University or qualification of a foreign university which is equivalent to a First Class or a High Second Class Master's degree of an Indian University. Whether the foreign degree is equivalent to a High Second Class Master's degree of an Indian University is a question relating purely to an academic matter and courts would naturally hesitate to express a definite opinion, specially when the selection university degree as so equivalent.□

and at Paragraph No.12 it is observed as under:

□ 12. In our opinion, in coming to the conclusion that appellant no.2 did not satisfy the first qualification, the High Court is plainly in error. The judgment shows that the learned Judges concentrated on the question as to whether a candidate obtaining 50 per cent marks could be said to have secured a high Second Class degree, and if the relevant question had to be determined solely by reference to this aspect of the matter, the conclusion of the High Court would have been beyond reproach. But what the High Court has failed to notice is the fact that the first qualification consists of two parts □ the first part is : a high Second Class Master's Degree of an Indian University, and the second part is: its equivalent which is an equivalent qualification of a foreign University. The High Court does not appear to have considered the question as to whether it would be appropriate for the High Court to differ from the opinion of the Board when it was quite likely that the Board may have taken the view that the Degree of Master of Arts of the Durham University, which appellant No.2 had obtained, was equivalent to a high Second Class Master's Degree of an Indian University. This aspect of the questions (sic) purely to an academic matter and courts would naturally hesitate to express a definite opinion, particularly, when it appears that the Board of experts was satisfied that appellant No.2 full filled the first qualification. If only the attention of the High Court had been drawn to the equivalent furnished in the first qualification, we have no doubt that it would not have held that the Board had acted capriciously in expressing the opinion that appellant No.2 satisfied all the qualification, including the first qualification. As we have already observed though the High Court felt some difficulty about the two remaining qualifications, the High Court has not rested its decision on any definite finding that these qualifications also had not been satisfied. On reading the first qualification, the position appears to be very simple; but unfortunately, since the equivalent qualification specified by cl.(a) was apparently not brought to the notice of the High court, it has failed to take that aspect of the matter into account. On that aspect of the matter, it may follow that

the Mater's Degree of the Durham University secured by appellant no.2, would satisfy the first qualification and even the second. Besides, it appears, that appellant No.2 has to his credit published works which by themselves would satisfy the second qualification, Therefore, there is no doubt that the High Court was in error in coming to the conclusion that since appellant no.2 could not be said to have secured a high Second Class Master's Degree of an Indian University, he did not satisfy the first qualification. It is plain Master's Degree of the Durham University, which appellant no.2 has obtained, can be and must have been taken by the Board to be equivalent to a high Second Class Master's Degree of an Indian University, and that means the first qualification is satisfied by appellant no.2. That being so, we must hold that the High Court was in error in issuing a Writ of Quo warranto, quashing the appointment of appellant no.2.□

36. In the decision of Hon'ble Supreme Court in State of Mysore and Another V. K.N.Chandrasekhara reported in AIR 1965 Supreme Court at Page 532 at Special Page 537 wherein at Paragraph No.10, it is observed as under:

10. It may at once be observed that the order passed by the High Court cannot in any view of the case be sustained. The High Court could, if it held that the notification issued by the Commission and the appointments made by the State pursuant thereto were made in violation of the statutory rules, quash the list but the High Court could not direct that the names of six persons merely because they had applied for setting aside the list of candidates selected for promotion be incorporated in that list. The direction made by the High Court was in the nature of mandamus. Such a direction could be issued against a person or body to compel the performance of a public duty imposed upon it by law □ statutory or common. The commission is undoubtedly a body constituted pursuant to the provisions of the Constitution and has to exercise powers and perform functions entrusted to it by the Rules framed under Article 309. But the order which the High Court made was not for compelling performance of its duty imposed upon the Commission by statute or common law. If the High Court came to the conclusion that the proceeding of the Commission by statute or common law. If the High Court came to the conclusion that the proceeding of the Commission was vitiated on account of some irregularity or illegality, it could declare the proceeding void. The High Court however held that the order including respondents 4 to 18 to the petitions in the list of persons eligible for appointment should be allowed to stand, because the petitioners in the petitions before it did not insist on the issue of writ of quo warranto. If the the High Court was satisfied on an application specifically made in that behalf that the persons who were occupying posts to which they were appointed contrary to the rules governing the appointment and consequently were not competent to occupy the posts, it is difficult to appreciate the ground on which the High Court would be justified in declining to pass appropriate orders. Either the High Court could set aside the proceeding of the Commission and direct preparation of a fresh list according to law, or the High Court could dismiss the petitions because in its view the list was regularly prepared. But the order passed by the High Court maintaining the inclusion of respondents 4 to 13 in the list and then directing the Commission to include the names of the six petitioners in the list merely because they had applied to the High Court is without authority.□

37. On a careful consideration of respective contentions, also this Court bearing in mind the fact that the 1st Respondent / Anna University, Chennai had framed the Regulations, 2017 [CBCS] after involving the 'Teachers Alumni, which had involved in the deliberations at the time of framing the Regulations, 2017' [CBCS] [through the Syllabus Sub-Committee and Board of Studies before finalising the said Regulations, 2017] also considering the attendant facts and circumstances of the present case in an encircling manner, comes to an irresistible

conclusion that the Appellants / Writ Petitioners have no 'Enforceable Legal Right' to seek the relief of 'Writ of Mandamus', in the considered opinion of this Court. Furthermore, in Academic Matters / Standards, a 'Court of Law' is not ordinarily to interfere and it is for the Experts in the field to look

into the same. To put it succinctly, a Court of Law cannot usurp the power and functions of the Academic Experts, who are the best suited persons in the Education Field to prescribe necessary standards in Education governing the concern field. Moreover, this Court on going through the Impugned Order dated 26.04.2018 in W.P.No.9291 of 2018 is of the considered opinion that the Learned Single Judge had rightly observed that 'Course' means the subject that is going to be taught, for which the minimum number of students of five is required and not for taking up of examination. That apart, the Learned Single Judge had proceeded to observe in the Impugned Order in W.P.No.9291 of 2018 that 'Since the conduct of arrear examinations once in six months had been dispensed with and the student is permitted to take up the examinations in the odd/even semester, depending upon the arrear papers, the Petitioners [Writ Appellants] are not prevented from taking up odd-semester examination, whenever odd-semester examinations are conducted etc., In short, the Impugned

Order of the Learned Single Judge dated 26.04.2018 in W.P.No.9291 of 2018 is free from any flaw.

In fine, the Writ Appeal is dismissed. Also, this Court lucidly makes quite clear that the dismissal of the present Writ Appeal by this Court will not preclude the Respondents 1 and 2 to look into the Representations of the Petitioners dated 22.03.2018 with all earnestness and seriousness and to dispose of the same on merits by spelling out their stand in writing and to communicate their decision within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed. No costs.

[M.V.J.,] & [S.R.T.J.,]

01.10.2018

Speaking Order

Index: Yes /No

Internet :Yes / No

ssd

To

1. Anna University,
represented by its Registrar,
Guindy, Chennai □ 600 025

2. The Director,
Centre for Academic Courses,
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