

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.01.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal No.1497 of 2017
and C.M.P.No.19758 of 2017

1.The Tamil Nadu Dr.Ambedkar Law University,
represented by its Registrar,
M.G.R.Salai, Near MRTS Railway Station,
Perungudi, Chennai-600 096.

2.The Controller of Examinations,
The Tamil Nadu Dr.Ambedkar Law University,
M.G.R.Salai, Near MRTS Railway Station,
Perungudi, Chennai-600 096.

Appellants

Vs.

K.Jayakaran

Respondent

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court dated 09.11.2017 in W.P.No.27829 of 2017.

Prayer in WP.No.27829/2017:Petition under Article 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order dated dated 31.08.2017 and made in Ref. No.1968/ COE/ C1/ 2017 on the files of second Respondents herein and to quash the same and also direct the Respondents to publish the results of all the papers written by petitioner in the 2nd Semester LL.M.(Constitutional Law and Human Rights) including one arrear in 1st Semester in April/ May 2017 exams

For Appellants : Mr.Vijay Narayan, Advocate General
for Mr.V.Vasanthakumar,
Standing Counsel for University

For Respondent : Mr.A.Chidambaram

JUDGMENT

(Judgment of the Court was delivered by
Huluvadi G.Ramesh, J.)

This writ appeal has been filed against the order passed by this Court dated 09.11.2017 in W.P.No.27829 of 2017.

2.The respondent is a lawyer by profession. He is pursuing LLM Course in the Constitutional Law and Human Rights in the appellant University. He wrote second semester during May 2017 and also one arrear paper in the first semester, on 26.04.2017. The results of the examinations in respect of the respondent were withheld alleging some malpractice practised by him in the examination. A show cause notice dated 08.08.2017 was issued to the respondent for the enquiry which was to be conducted on 23.08.2017. After getting explanation dated 17.08.2017 from the respondent in the enquiry, an order was passed by the second appellant on 31.08.2017 cancelling all the papers written in that session and his eligibility to appear for November 2017 examination.

3.The respondent approached this Court by filing a writ petition in W.P.No.27829 of 2017 seeking to quash the said order passed by the second appellant dated 31.08.2017 in Ref.No.1968/COE/C1/2017 and to direct the appellants herein to publish the results of all the papers written by the respondent in the 2nd semester L.L.M. (Constitutional Law and Human Rights) including one arrear in 1st semester in April/May 2017 exams.

4.The allegation against the respondent is that he disclosed his identity in the answer sheet by writing his name and registration number in respect of one subject, viz. Judicial Process and that was the allegation raised in the show cause notice as well. The respondent gave an explanation dated 17.08.2017 stating that the mistake was committed unintentionally and nothing is gained by him by disclosing his identity. However, after enquiry, the second appellant cancelled all the papers written by the respondent in that session. It was submitted on behalf of the respondent before the writ Court that no proper opportunity was given to the respondent and that the respondent has not gained anything by disclosing the identity. After hearing the parties and also considering the student's future, the learned single Judge has passed the order impugned herein, giving liberty to the appellants to issue warning to the respondent with regard to the other papers instead of cancelling them, as cancellation was done already for one paper. Except Judicial Process paper, the results for the other papers were directed to be published by the University before 10.11.2017. It was also observed by the learned single Judge that with regard

to cancellation of other examinations, since as per the show cause notice, the respondent was accused of disclosing identity in only one paper, viz. Judicial Process, the appellants are bound to restrict themselves only to that particular paper.

5. Challenging the order passed in the writ petition, the present writ appeal has been filed by the University.

6. Mr. Vijay Narayan, learned Advocate General appearing for the appellant-University has submitted that the learned single Judge ought to have considered the fact that though show cause notice was issued to the respondent with regard to the malpractice committed by him while writing one paper, viz. Judicial Process, the duly constituted Disciplinary Committee is vested with the powers to examine all the related documents exhaustively during the course of enquiry. He also submitted that the learned single Judge ought to have considered the fact that after detecting the malpractices committed by the respondent in all the other papers also, the Disciplinary Committee cannot ignore such malpractices and allow the publication of the results. Stating so, he prayed for quashing the order passed by the learned single Judge.

7. Reiterating the counter affidavit filed on behalf of the respondent, the learned counsel for the respondent has submitted that the order passed by the learned single Judge is a just and reasonable one in the facts and circumstances of the case and that the respondent will not indulge in any such kind of malpractices in future.

8. As per the submission made by the learned Advocate General appearing for the appellant-University, the duly constituted Disciplinary Committee is vested with the powers to examine all the related documents exhaustively during the course of enquiry and hence, having found malpractices in the other papers also, the Disciplinary Committee cannot ignore such malpractices and allow the publication of the results. As per the Annexure-Tamil Nadu State Council for Higher Education "On Controlling Malpractices in University Examinations", the punishment that can be ordered is cancellation of examination.

9. With regard to Judicial Process paper, the learned single Judge has held that the appellants would be justified in cancelling the exam written by the respondent in respect of that paper alone. Now, it is stated by the learned Advocate General that as per the order passed by the learned single Judge the said examination has been cancelled and the respondent also wrote the examination for the said paper in the subsequent session for which results will be announced. The said statement made by the learned Advocate General is recorded.

10.With regard to other papers, it appears that results have not been published. Taking into consideration the submissions made by the learned Advocate General for the appellants and also the facts and circumstances of the case, the second appellant-Controller of Examinations, Tamil Nadu Dr.Ambedkar Law University, is directed to issue notice to the respondent to appear before him on 17.01.2018 for personal hearing. If the act of the respondent by way of declaring his identity is found to be not intentional and it was only by way of ignorance, then, he may be warned and results shall be published. If the act of the respondent is found to be intentional, the punishment would be to cancel the examinations already written and to permit him to write the examinations in the next ensuing session. Appropriate order shall be passed in this regard, by the second appellant on or before 19.01.2018.

11.With the above observations and directions, the writ appeal is disposed of. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Registrar,
Tamil Nadu Dr.Ambedkar Law University,
M.G.R.Salai, Near MRTS Railway Station,
Perungudi, Chennai-600 096.

2.The Controller of Examinations,
Tamil Nadu Dr.Ambedkar Law University,
M.G.R.Salai, Near MRTS Railway Station,
Perungudi, Chennai-600 096.

+1 cc to M/s.V.Vasanthakumar Advocate sr 1896
+1 cc to M/s.A.Chidambaram Advocate sr 1900

W.A.No.1497 of 2017
and
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