

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9621 of 2018

and

W.M.P.No.11537 of 2018

Mr.V.Vinodraj

.. Petitioner

Vs.

1. The Controller of Exams,
Anna University,
Sardar Patel Road,
Old Highways Building,
Guindy, Chennai-600 025.

2. The Registrar,
Anna University,
Sardar Patel Road,
Old Highways Building,
Guindy, Chennai-600 025.

3. The Principal,
Vel Tech High Tech,
Dr.Rangarajan Dr.Sakunthala Engineering College,
42 & 60, Avadi-Vel Tech Road,
Avadi, Chennai-600 062.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to condone the lack of attendance of the petitioner and thereby permit the petitioner to continue the B.E. Computer Science Engineering Course in the Academic Year 2017 to 2018 and complete 6th Semester.

For petitioner : Mr.M.Velmurugan

For respondents : Mr.M.Vijayakumar for RR-1 and 2
Mr.S.Thankasivan 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 respondents to condone the lack of attendance of the petitioner and thereby permit the petitioner to continue the

B.E. Computer Science Engineering Course in the Academic Year 2017 - 2018 and complete 6th Semester.

2. The case of the petitioner is that he is pursuing Computer Science Engineering in the third respondent-College and presently studying III year of the course, i.e. 6th Semester. He was injured in a motor bike accident, which caused fracture on his left wrist and bruises all over his body and also injuries on his knees and he was also suffering from pain and fever due to the said fracture. The Doctor advised complete bed rest. Therefore, he was unable to attend the classes for the period between 14.02.2018 and 17.03.2018. His overall attendance is only 58%. In support of his absence, the petitioner had produced Medical Certificate to the third respondent-College and requested for condonation of his absence and shortfall in attendance.

3. It is further stated by the petitioner that as per the requirement of the first respondent, a student should have 75% of attendance to write the exams. The lack of attendance can be condoned if the same is not below 65%. It is the stand of the petitioner that as he has attendance of 58%, due to medical emergency, the attendance can be taken/relaxed to 69%, which is eligible for condonation, by payment of penalty as prescribed by the first respondent-University. It is the grievance of the petitioner that the third respondent is neither accepting the absence due to medical emergency, nor permitting the petitioner to continue the course of III year any further. Hence, the petitioner has filed this Writ Petition for the relief stated supra.

4. The respondents 1 and 2 have filed counter affidavit stating that in order to allow certain unavoidable reasons such as medical/participation in sports/personal, the student is expected to attend at least 75% of the classes during any Semester commencing from 1st Semester. The student shall secure not less than 75% of overall attendance taking into account the total number of 450 periods in a Semester within 90 working days in all courses put together attended by a candidate as against the total number of periods in all courses offered during the Semester. However, a candidate who secures overall attendance between 65% and 74% that current Semester due to medical reasons (prolonged hospitalisation/accident/specific illness / participation in sports events) may be permitted to appear for the current Semester examinations, subject to the condition that the candidate shall submit the Medical Certificate attested by the Head of the Institution. The same shall be forwarded to the Controller of Examinations of the University for record purposes. It is further stated in the counter of the respondents 1 and 2 that the candidates who secure less than 65% of overall

attendance, shall not be permitted to write the University examination at the end of the Semester and not permitted to go to the next Semester. They are required to repeat the incomplete Semester in the next academic year, as per the norms prescribed.

5. It is also stated in the counter affidavit filed by the respondents 1 and 2 that the University is not competent to condone any period of long absence, as no such powers have been vested with the University, whatever may be the genuine reason for his absence. Further, if a student has no adequate attendance in the classes, he/she is not permitted to continue the classes in the same Semester for the reasons that he/she may lose the chances to study and learn the lessons in depth, since all subjects are not merely academic oriented, but Engineering and technically oriented. If they are permitted, there may be dilution in the academic standards of the University and finally affect the standards of the system in vogue. The rules and regulations contemplated under the University Act cannot be over-ruled/infringed/trampled by the University authorities. It is further stated that condoning of absence on humanitarian grounds may emasculate the education system and ultimately the standard of the students would become lower than the global standard. Unlike other graduates, Engineering graduates must have wide knowledge in the subject in the competitive world. For these reasons, the respondents 1 and 2 pray for dismissal of the Writ Petition.

6. The third respondent has filed counter affidavit stating that the petitioner never submitted any Medical Certificate to the third respondent-institution regarding the alleged incident. In respect of the requirement of attendance for appearing in the University examination, the third respondent relied on Clauses 6.1 to 6.3 of the Anna University Regulations, 2013, which reads as follows:

"6. Attendance requirements for completion of the Semester: सत्यमेव जयते

6.1. A candidate who has fulfilled the following conditions shall be deemed to have satisfied the requirements for completion of a semester. Ideally every student is expected to attend all classes and secure 100% attendance. However, in order to give provision for certain unavoidable reasons such as Medical/participation in sports, the student is expected to attend atleast 75% of the classes. Therefore, he/she shall secure not less than 75% (after rounding off to the nearest integer) of overall attendance as calculated as per Clause 5.3.

6.2. However, a candidate who secures overall attendance between 65% and 74% in the current semester due to medical reasons (prolonged hospitalisation/accident/specific illness) / participation in sports events may be permitted to appear for the current semester examinations subject to the condition that the candidate shall submit the medical certificate/sports participation certificate attested by the Head of the Institution. The same shall be forwarded to the Controller of Examinations for record purposes.

6.3. Candidates who secure less than 65% overall attendance and candidates who do not satisfy the clause 6.1 and 6.2 shall not be permitted to write the University examination at the end of the semester and not permitted to move to the next semester. They are required to repeat the incomplete semester in the next academic year, as per the norms prescribed."

7. The third respondent further stated in the counter that the petitioner has secured overall attendance of 60.08% attendance in the VI Semester. In pursuant to the information given by the third respondent, the petitioner and his parents approached the third respondent on 13.04.2018 and the petitioner himself has confirmed in writing that his attendance is around 58.98% and he is fully responsible for such low attendance. This letter has been signed by the parents of the petitioner also. It is further stated by the third respondent that the third respondent has no authority of law for condonation of lack of attendance. The attendance percentage of all the students along with the petitioner, was duly forwarded by the third respondent to the first respondent-University and only the first respondent-University is empowered to take a decision regarding the condonation of lack of attendance on the part of the petitioner.

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

9. The sum and substance of the issue on hand is that the petitioner should have 75% attendance in a Semester for taking up the examinations. If the petitioner was unwell, the absence can be condoned, provided the petitioner has 65% attendance.

10. Learned counsel appearing for the third respondent submitted that there is a shortage of attendance and in any event, the petitioner falls short of the required attendance of 65%. This Court cannot conduct roving enquiry regarding the number of classes conducted and the number of classes attended by the petitioner. In any event, going by the counter affidavit of the third respondent, the petitioner is having attendance less than 65%.

11. In the above context, with regard to the importance and quality of education, the Apex Court, in the decision reported in CDJ 2014 SC 877 = 2014 AIR SCW 6173 = 2014 (8) MLJ 626 (Varun Saini and others Vs. Guru Gobind Singh Indraprastha University), has held that the education is the spine of any civilised society. The relevant paragraph of the said judgment of the Supreme Court is extracted below:

"Education is the spine of any civilised society. Formal education has its own significance, for it depends upon systemic imparting of learning regard being had to the syllabus prescribed for the course and further allowing space for cultivation by individual endeavour. The sacrosanctity of formal education gains more importance in the field of technical studies because theory, practical training and application in the field cumulatively operate to make a student an asset to the country and, in a way, enables him to achieve excellence as contemplated under Article 51A of the Constitution. The natural corollary, in the ultimate eventuate, is the acceleration of the growth of the nation. But, a pregnant one, when an attitude of apathy or lackadaisical propensity or proclivity of procrastination of the statutory authorities creeps in as a consequence of which the time schedule meant for approval of the educational institutions and commencement of the courses is not adhered to, a feeling of devouring darkness seems to reign supreme as if "things fall apart". There is a feeling of discomfiture - how to find out a solvation to the agonizing problem in exercise of the jurisdiction under Article 32 of the Constitution of India, for there are some compelling reasons to do so to protect the national interest as well as not to scuttle the aspirations of

young students or to comatose their hopes stating that all cannot be well in the State of Denmark and there should not be a Sisyphean endeavour. We are constrained to commence with such a prologue as the present batch of writ petitions pertains to counselling and admission in certain categories of courses which are approved and controlled from many a spectrum regard being had to the sustenance of standard in education by the All India Council for Technical Education (for brevity, "AICTE"), and also some categories of courses which are directly governed by the statutes and regulations of the University, namely Guru Gobind Singh Indraprastha University (hereinafter referred to as "the University") in the backdrop of extension of time schedule fixed by this Court in respect of technical courses."

12. In the above said judgment, the Supreme Court has also held that unless a student gets the requisite attendance of 75% on the basis of the computation held, regard being had to the entire teaching days, he shall not be permitted to appear in the examination.

13. Further, in the decision reported in CDJ 2013 MHC 5473 (Madurai Bench of this Court) (K.Khayathri and another Vs. The Secretary to Government of Tamil Nadu, Department of Technical Education and others), this Court observed as follows:

"14. Unless, the student has attended the requisite minimum classes, she cannot be permitted to write the examinations. It is only with a view to maintain standards of education. There cannot be dilution of the standards. Just because the petitioner wrote the examinations, she cannot now seek or plead that she cannot redo the 7th semester classes, particularly, when she did not have the required attendance. Even as per her affidavit, she was not well and she was also admitted as inpatient in the hospital."

14. In the case on hand, there can be condonation of attendance, provided the petitioner/student must secure minimum 65% attendance. As the petitioner did not have the requisite attendance, and may be the reason is beyond his control, as he

suffered fracture in his hands due to accident, be it a fact that whether he was wearing Helmet or not. This Court is not inclined to condone the absence. Instead of conducting 450 periods, the College itself has conducted only 435 periods. If the College has conducted 450 periods, certainly the petitioner would have attended those periods. That cannot be the reason.

15. It is to be noted that the attendance must be in correlation to the number of full days of classes conducted and attended. If the contention of the petitioner is accepted, then all the students who may be having shortage of attendance, will have to be given the benefit of 15 periods that the College has not conducted.

16. Hence, for the reasons stated above, the Writ Petition is dismissed. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar (CS-IV)

// True Copy//

Sub Assistant Registrar

To

1. The Controller of Exams,
Anna University,
Sardar Patel Road,
Old Highways Building,
Guindy, Chennai-600 025.

2. The Registrar,
Anna University,
Sardar Patel Road,
Old Highways Building,
Guindy, Chennai-600 025.

+1cc to Mr.M.VIJAYAKUMAR, Advocate SR.No.51004
+1cc to Mr.M.VELMURUGAN, Advocate SR.No.50985
+1cc to Mr.S.THANKASIVAM, Advocate SR.No.50907

W.P.No.9621 of 2018

SS(CO)
SMI/20.08.2018