

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8806 of 2018

P.Prithivirajan

..Petitioner

-vs-

1. The Law Secretary
Government of Tamil Nadu
Secretariat, St.George Fort
Chennai 600 009
 2. Director of Legal Studies
No.198, Purasaivakkam High Road
Pavapuri Colony, Lumbini Square
Purasaivakkam
Chennai 600 010
 3. Controller of Examinations
Dr.Ambedkar Law University
Near Tharamani Railway Station
Perungudi
Chennai 600 096
 4. The Principal
Government Law College
Chengalpet 603 001
- ..Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records on the file of the third respondent in connection with the proceedings in No.255/COE/C1/2018 dated 22.03.2018 and quash the same as illegal, arbitrary and non-est in law and consequently direct the third respondent to provide an opportunity to the petitioner to write the papers in arrears, if any, after the results are published.

For Petitioner:: Mr.D.Alexis Sudhakar

For Respondents:: Mr.D.Suryanarayanan
Additional Government Pleader
for R1 & 2
Mr.V.M.G.Ramakkannan
Standing Counsel for R3

Mr.V.Kadhirvelu
Special Government Pleader for R4

ORDER

This writ petition has been filed by Mr.P.Prithivirajan challenging the impugned order dated 22.3.2018 issued by the Controller of Examinations, The Tamil Nadu Dr.Ambedkar Law University cancelling all the arrear papers written by the petitioner in the examinations held during November, 2017 at the Government Law College, Chengalpattu and consequently debarring the petitioner for four more sessions and making him eligible to appear for the May, 2020 examinations.

2. Learned counsel for the petitioner, assailing the impugned order, submitted that when the petitioner had appeared in the examinations held in November, 2017 for the arrear papers, his results were withheld without informing the reasons thereof. Therefore, the petitioner approached the University in person to understand the reasons for his results being withheld. But he was directed to go back to his college without stating any reason. Accordingly, he approached the Principal of the college, who also informed him that he was suspected for having misbehaved inside the examination hall while writing the arrear papers. Although the petitioner pleaded that he never misbehaved at any point of time inside the examination hall and also explained to the Principal that his mother is taking care of his education, as his father expired leaving his family alone while he was 13 years, the Principal of the college did not even accept the explanation. Moreover, he was not even informed by the Principal as to the nature of misbehaviour and no notice whatsoever has been given. Therefore, the petitioner has given representations on 31.1.2018 to the Controller of Examinations Dr.Ambedkar Law University and the Principal of Government Law College, Chengalpattu requesting them to explain why the results were unnecessarily withheld and also to give the reasons in writing describing in which examination, what date and with which invigilator he misbehaved so as to submit his explanation and also prayed to publish the results. Although he submitted his representation, he received the letter No.255/COE/C1/2017 dated 2.3.2018 from the Controller of Examination, Dr.Ambedkar Law University, the third respondent herein asking the petitioner to submit his explanation on or before 12.3.2018 and also to appear before the disciplinary committee for an enquiry on 17.3.2018. Even in the said letter, the third respondent failed to mention the nature of misbehaviour and also the date and the name of the invigilator. Finally the disciplinary committee proceeded with the enquiry on 17.3.2018 in which the petitioner was called upon to admit his misbehaviour. Again the petitioner, during the enquiry, requested the enquiry officer to explain in which examination, on what date and with which

invigilator he had committed the so called misbehaviour. Without informing anything, the third respondent has passed the impugned order cancelling all the papers written in the session and consequently debarred the petitioner for four more sessions and also made him eligible to appear for the examination to be conducted during May, 2020. When the respondents have not informed the reasons for passing such an order, the career of the petitioner is going to be ruined. Moreover, when Dr. Ambedkar Law University is known for its excellence in providing legal education and also for maintaining highest degree of discipline among the students and also the faculty members, they should put on notice the person who is alleged to have misbehaved and the nature of allegations. But in the present case, even in the counter affidavit filed by the third respondent, the respondents have not explained what is the nature of misbehaviour the petitioner is alleged to have committed. That shows that the impugned order has been passed without application of mind and also without any reasonableness.

3. The learned standing counsel for the third respondent was unable to explain what is the nature of misbehaviour the petitioner is alleged to have committed while writing the arrear papers in respect of the B.A., B.L., Degree examinations held during November, 2017 at the Government Law College, Chengalpattu. However, he has produced a sealed cover. After opening the sealed cover, when this Court perused the contents at Serial No.20 in respect of the petitioner, again they have repeated the same vague allegation "misbehaved with invigilator".

4. This Court is not able to know what is the nature of misbehaviour and even the petitioner was also not informed of the reason or the nature of misbehaviour. Since the impugned order has been passed by the college of Law, this Court expects more observance of principles of natural justice from the college of Law and they should also know what is the first and foremost principle known as audi alteram partem rule i.e., no one should be condemned unheard. When they allege that the petitioner has committed misbehaviour, the allegation must be precise and unambiguous. It should also apprise the party determinatively the case he has to meet. When it is essential that a party should be put on notice of the case before any adverse order is passed against him, in the present case, nowhere either the impugned order or the counter affidavit says the nature of misbehaviour. In this context, it is more appropriate to quote the principle laid down in Cooper v. Wandsworth Board of Works [(1863) 143 ER 414], which is stated below:-

"Even God did not pass a sentence upon Adam,
before he was called upon to make his defence.
"Adam" says God, "where art thou?" Has thou not eaten

of the tree whereof I commanded thee that thou shouldst not eat. "

5. When the above principle says that even God cannot pass a sentence upon Adam without hearing him, it is not known why the college of Law should not be made to follow the same principle, for the reason that even King can do no wrong today. As highlighted above, when this Court is not able to know what is the misbehaviour on the part of the petitioner, the punishment imposed against him is liable to go. Accordingly, the impugned order is quashed. Considering the fact that the petitioner is fatherless and his mother is eking out her livelihood by doing housemaid work and that the educational expenses of the petitioner are being met by his maternal uncle, this Court hereby directs the third respondent to declare the results of the three arrear papers written by the petitioner during November, 2017 within a period of two weeks from the date of receipt of a copy of this order. Needless to mention that the respondents 3 & 4 shall follow the proper procedure as per the Rules henceforth. With this direction, the writ petition stands allowed. No costs.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

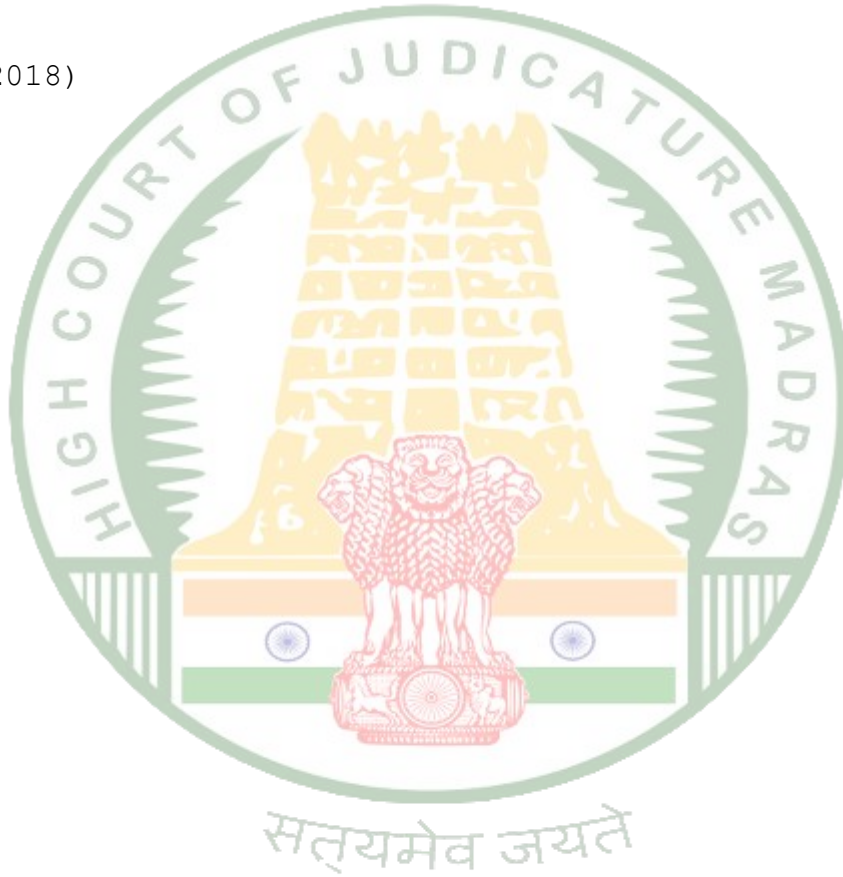
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+4 Ccs to Mr.D.Alexis Sudhakar, Advocate sr 85271.
+1 CC to Mr.V.M.G.Ramakkannan, Advocate sr 85664.
+1 CC to Spl. Govt. Pleader sr 85873

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SVN(CO)
SP(19/12/2018)



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