

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

CORAM

THE HON'BLE MR. JUSTICE HULUVADI G. RAMESH
AND
THE HON'BLE MR. JUSTICE K.KALYANASUNDARAM

W.A.No.1670 of 2018

G.Meganathan

.. Appellant

Vs.

1. The Syndicate
Anna University
Chennai - 600 025.

2. The Vice Chancellor
(Now the Vice Chancellor Convener Committee)
Anna University
Chennai - 600 025.

3. The Registrar
Anna University
Chennai - 600 025.

4. The Controller of Examinations
Anna University
Chennai - 600 025.

.. Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent against the order dated 12.4.2018 passed by the learned Single Judge in W.P.No.6601 of 2018.

W.P.No.6601 of 2018:

Writ Petition filed under Article 226 of the constitution of India, praying for issuance of a Writ of certiorarified Mandamus to call for the records relating to the impugned order passed by the fourth respondent herein in his Memo No.CEG/ COE/ C25/ 2017- 52104 dated 03.01.2018 and quash the same and consequently issue a direction directing the respondents herein to allow the petitioner to appear for the examination papers 1. P-MA1-26 MATHAMATICS 2. MA3-03 MATHAMATICS-III AND 3. MA5-10 NUMERICAL METHODS to be conducted in August 2018.

For Appellant : Mr.G.Bala

For Respondents : Mr.Vijayakumar

JUDGMENT

(Delivered by Huluvadi G.Ramesh,J.)

Calling in question the order dated 12.4.2018 passed by the learned Single Judge in W.P.No.6601 of 2018, the unsuccessful petitioner has filed this writ appeal.

2. According to the appellant, he joined the Anna University to pursue B.E. (Part-time Civil Engineering) for the academic session 1994-1998 and he had cleared all the papers, except three papers, i.e., (i) P.MA1-26 Mathematics; (ii) MA3-03 Mathematics-III, and (iii) MA5-10 Numerical Methods. The appellant states that due to family circumstances and on account of the fact that his place of work is at a different location, he could not clear the above three papers within the time stipulated by the Anna University.

3. It is the case of the appellant that even though a notification was issued in November, 2017, he had been denied an opportunity to appear for the examinations. Therefore, on 19.12.2017, he had submitted an application to the respondent University seeking permission to write the examination for the above said three subjects to enable him to obtain his Engineering Degree.

4. It is stated that the fourth respondent, vide order dated 3.1.2018, rejected the request of the appellant stating that the appellant had enrolled prior to 2000 and, therefore, he does not satisfy the conditions stated in the above said notification.

5. Assailing the said proceedings dated 3.1.2018 of the fourth respondent, the appellant filed the writ petition seeking to quash the said order and to direct the respondents to permit the appellant to appear for examinations to be conducted for the above said three subjects.

6. The learned Single Judge by order dated 12.4.2018 dismissed the writ petition holding as under:

"11. Permitting students to take up the arrear examinations is only a concession and it is given by the University on humanitarian grounds. When the student is not able to clear the arrears, except on genuine grounds, the respondents should

not issue these kinds of Notifications, as it will always create unrest among the students and the University will always be litigating over the matters in Courts instead of the teachers taking classes for the students. The Karnataka High Court in the above decision relied on in the counter affidavit filed by the respondents, has clearly held that the wrong cannot be repeated every time. In this case, the Notification issued itself is a wrong one and yet another wrong has been there that the University has issued the Notification in 2017, however, by fixing the cut-off date for the students who had been admitted in 2000. When the petitioner has already been given a chance and if he is given another chance, and if the student is not qualified pursuant to the present Notification issued in 2017, it will require that there is a discrimination and that they should also be given one more chance. The concession/benefit cannot be demanded as a matter of right by a student while taking up the arrear examinations in clearing the course itself. When this Court expresses disagreement with regard to the contention of the petitioner, the petitioner stated that he has already preferred an appeal and the appeal is pending against the impugned order, before the concerned appellate authority. This Court is not willing to relegate the matter to the appellate authority on two grounds, namely (i) when the facts are not in dispute, the alternative remedy need not be a bar and this Court can entertain the Writ Petition, and (ii) when the petitioner approaches the Court stating that the alternative remedy is a bar at one time and contend that the alternative remedy is not a bar in another occasion, to suit his convenience. In the decision reported in 1999 (4) SCC 450 (Hindustan Petroleum Corporation Ltd. Vs. Dolly Das), the Supreme Court has held that when the facts are not in dispute, the alternative remedy is not a bar and the High Court can entertain a Writ petition. In this case, as the facts are not in dispute, the petitioner will not have a locust-standi to demand as a matter of right that he should be permitted to take up the arrear examinations. The petitioner's contentions cannot be accepted and if it is accepted, it would amount to opening the Pandora's box."

7. The learned counsel appearing for the appellant submitted that even though the respondent University on 22.11.2017 issued a press notification granting one time exemption on arrear rule

for students who joined in 2010 and earlier to write exams for two semesters in 2018, subsequently, a restriction was imposed to the effect that the students admitted from the year 2000 would alone be allowed to clear the arrears in 2018 and such restriction is arbitrary and discriminatory.

8. Per contra, the learned counsel appearing on behalf of the respondents submitted that the appellant had been given additional opportunity to appear for his arrear examinations for nine years, i.e., 18 semesters, as a special case and such concession granted cannot be extended to the appellant indefinitely, as the same would run counter to the regulations governing the respondent university.

9. Heard the learned counsel on either side and perused the documents available on record.

10. It is a matter of record that according to the Regulations of the University Grants Commission, a student, who for whatever reasons is unable to complete the programme within the normal period of the minimum duration prescribed for the programme, may be allowed two years period beyond the normal period to clear the backlog to be qualified for the degree and the general formula is as under:

"(i) Time span = $N + 2$ years for the completion of programme, when N stands for the normal or minimum duration prescribed for completion of the programme and

(ii) In exceptional circumstances, a further extension of one more year may be granted. The exceptional circumstances be spelt out clearly by the relevant statutory body concerned of the University."

11. The appellant was already given a chance in 2006 and in the 18 semesters from the date of his admission to the college, i.e., for nine years, he had not cleared the papers, even though as per the Regulation he could be permitted to write the arrear examination only for the maximum period of six years. When the appellant had the benefit in 2006, he did not avail of such benefit. That apart, the appellant had not challenged the Notification of the year 2017.

12. The Supreme Court in All India Council for Technical Education v. Surinder Kumar Dhawan, (2009) 11 SCC 726, emphatically held as under:

"The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of

technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realising the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education."

13. The law enunciated in the decision, referred supra, makes it amply clear that the role of statutory expert bodies on education and role of courts are well defined and if it is a question of educational policy or an issue involving academic matter, the courts keep their hands off and only if any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, the courts would step in.

14. In the case on hand, admittedly, the question relates to the policy of the respondent University. As already observed, the appellant had been granted substantial concession for almost nine years, thereby permitting him to participate in 18 semesters (9 years) on humanitarian grounds, even though as per the regulations he could be permitted to appear for only six years at the maximum. In the case of educational policy or issues involved, it is not for this Court to substitute the experts opinion and convert the four years course, with two years extension period to clear the arrears if any indefinitely, as the same would destroy the basic foundation of the regulations applicable to the respondent University.

15. In the Regulations, there is no provision for providing concession one more time to the appellant. The appellant had got 9 years to complete B.E course, which is of 4 years, and ought to have at least cleared it in these 18 semesters. In spite of getting sufficient period to complete the course, the appellant could not complete the course.

16. The respondent University is empowered to prescribe the time schedule for completion of a course and it is responsible for maintaining the standard of education. The appellant, who joined the B.E. Degree Course for the course duration 1994-1998, cannot now at the age of fifty, as a matter of right claim concession to write the arrears examination, citing as an example concession granted to another candidate under different facts and circumstances of the case.

17. For the foregoing reasons, we do not find any reason to interfere with the order passed by the learned Single Judge.

In the result, the writ appeal is dismissed. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To:

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Chennai - 600 025.

+1 CC to Mr.M. Vijayakumar, Advocate sr 64120.

+1 CC to M/s.G. Bala and Daisy, Advocate sr 64396.

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W.A.No.1670 of 2018

SPD(CO)
SP(03/10/2018)

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