

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.19062 of 2017
and
W.M.P.No.20580 of 2017

N.S.Saravanan

.. Petitioner

Vs.

1. Anna University,
Rep. by its Registrar,
Anna University Campus,
Sardar Patel Road,
Guindy, Chennai-600 025.
 2. The Director,
Centre for Academic Courses,
Anna University,
Sardar Patel Road,
Guindy, Chennai-600 025.
 3. The Controller of Examination,
Anna University,
Sardar Patel Road,
Guindy, Chennai-600 025.
 4. The Directorate of Technical Education,
Represented by its Commissioner,
Anna University Campus,
Guindy, Chennai-600 025.
 5. McGan's Ooty School of Architecture,
Rep. by its Principal,
No.5/635, Perar,
Kothagiri Road, T.Mynala Post,
Ooty, The Nilgiris District.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned proceedings in Lr.No.7121/COE/C33/2017-19613, dated 10.06.2017 of the third respondent and quash the same and consequently direct the fourth respondent to declare that the petitioner who studied M.Arch--Environmental Architecture (Part Time) Course

bearing Reg.No.712113865501, has completed his Course without any break up and on issuance of such declaration by the fourth respondent, direct the second respondent to award the petitioner with First Class Grade instead of Second Class Grade and to remove the word Flexible Mode and communicate the same to the third respondent for issuance of fresh Mark Sheets, Provisional Certificate, Consolidated Statement Grades, Master's Degree and Course Equivalence Certificate to the petitioner, after carrying out necessary changes within a time frame.

For petitioner : Mr.V.Govardhanan for M/s.S.Sathish Rajan
For respondents : Mr.M.Vijayakumar, Standing Counsel for RR-1 to 3
Mrs.V.Annalakshmi, Govt. Advocate for R-4
Mr.R.Gopinath for R-5

ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned proceedings in Lr.No.7121/COE/C33/2017-19613, dated 10.06.2017 of the third respondent and quash the same and consequently direct the fourth respondent to declare that the petitioner who studied M.Arch--Environmental Architecture (Part Time) Course bearing Reg.No.712113865501, has completed his Course without any break up and on issuance of such declaration by the fourth respondent, direct the second respondent to award the petitioner with First Class Grade instead of Second Class Grade and to remove the word Flexible Mode and communicate the same to the third respondent for issuance of fresh Mark Sheets, Provisional Certificate, Consolidated Statement Grades, Master's Degree and Course Equivalence Certificate to the petitioner, after carrying out necessary changes within a time frame.

2. The case of the petitioner is that he has completed B.Arch in 1998 from Madras University through Adhiyamaan Engineering College, Hosur. He has been practising as an Architect and thereafter, he entered into teaching profession and in the Academic Year 2011-2012, he joined M.Arch-Environmental Architecture (Flexible Mode) Course in the fifth respondent-institution under the Career Advancement Scheme. However, his admission to the said M.Arch course was not approved by the fourth respondent-Directorate of Technical Education for want of consolidated mark sheets of B.Arch Course. It is the further case of the petitioner that when he completed his B.Arch Course, at the time, there was no such practice of issuing the consolidated mark sheet. This explanation given by the petitioner was not accepted by the fourth respondent. Hence, the fifth respondent-institution filed W.P.No.1204 of 2012 seeking permission for the students to sit for the M.Arch First

Year examination and the fifth respondent-institution also filed W.P.No.16301 of 2012 to quash the order dated 19.01.2012 refusing to approve the petitioner's admission. This Court, by order dated 18.01.2012, permitted the petitioner and other similarly placed students in the fifth respondent-institution to write the First Semester Examination. However, on 03.08.2012, both the said Writ Petitions were disposed of, permitting the petitioner to approach the Controller of Examinations of the Madras University, who in turn was directed to consider the request of the fifth respondent-School to grant the consolidated mark sheets to the students and on receipt of the same, the fourth respondent was directed to consider the request of the petitioner with regard to the approval of the petitioner's admission in M.Arch Course. Thereafter, by communication dated 11.03.2014, the fourth respondent granted re-admission of the petitioner in his M.Arch Course in the fifth respondent-institution. Subsequently, the petitioner was permitted to take up II Semester Examination in June 2014, and he completed his M.Arch Course in June 2016 with Cumulative Great Point Average (CGPA) 7.55.

3. It is the grievance of the petitioner that he is eligible to be awarded I Class as per Regulation 16.2 of the first respondent-University's Regulations, 2013. Without any rhyme or reason, the petitioner was allowed to write the examination belatedly and awarded II Class and on account of the delay/lapse on the part of the respondents 1 to 4, the award of graduation of M.Arch to the petitioner under II Class is incorrect and there is no break as contemplated under Regulation 16.2 of the said Regulations and that the fourth respondent, without any application of mind, has passed the impugned order and not awarded I Class to the petitioner. The fifth respondent-institution, on behalf of the petitioner, has made a representation, but as on date, there is no response. Hence, the petitioner has filed the above Writ Petition for the relief stated supra.

4. The respondents 1 to 3-Anna University has filed counter affidavit stating that the petitioner joined M.Arch course in the Academic Year 2011-2012 under Regulation 2011 and had a break of study during 2011-2012 and continued his education during 2013-2014, vide proceedings of the Directorate of Technical Education, dated 11.03.2014. Hence, he came under the new Regulations, 2013. According to Regulation 3.1 of the Regulations, 2013 of the Anna University, the petitioner should have completed his course within six semesters (3 years) (minimum number of semesters), i.e. 2013-2014. He had an unauthorised break of study during the II Semester i.e. 2011-2012 and got re-admission from the Directorate of Technical Education, vide proceedings dated 11.03.2014 and completed his

course during 2015-2016 (i.e. after two years). According to Regulation 16.2 of the Regulations, one student can take another one year (i.e. authorised break of study owing to illness or sports or any other special reason). The petitioner had not availed any authorised break of study as stipulated in the Regulations and hence, he could not enjoy the benefit of Regulation 16.2. Knowing fully well the consequences, the petitioner got his re-admission for his break of study from the Directorate of Technical Education and joined the course. As the petitioner did not complete his course within the specified time, I Class was not awarded to him, though he had secured 7.55 CGPA. Before admission in the college, the approval from the Directorate of Technical Education is required. Unless the approval is granted by the Directorate of Technical Education, it may not be possible for the respondents 1 to 3 to admit a student for the Semester Examination.

5. The respondents 1 to 3 further stated in the counter that the petitioner failed to submit his consolidated mark sheet obtained from the Madras University to the Directorate of Technical Education at the appropriate time and as a result, the Directorate of Technical Education has not given approval to the petitioner for his admission to M.Arch (Part time) Course. There was no approval from the Directorate of Technical Education admitting the petitioner for the Semester Examination, and if the same is granted, it would lead to a bad precedent and against the procedures in force. Getting approval from the Directorate of Technical Education for the admission, is the sole responsibility of the petitioner to make his admission absolute and the respondents 1 to 3 have no role to play in the issue. Even though the petitioner was not entitled to write his Semester Examination, he was permitted to write his Semester Examination only on the direction of this Court in W.P.No.1204 of 2012, subject to the orders passed by the Directorate of Technical Education. Due to non-submission of certificates to the Directorate of Technical Education in time, he was compelled to get his re-admission. Hence, the delay in giving approval was not on the part of the Directorate of Technical Education, but the delay is on the part of the petitioner in not submitting the certificates in time to the Directorate of Technical Education. When the petitioner moved to the new Regulations owing to his break up of study, he had to undergo additional course and is exempted in one course of subject, which is evident from the proceedings dated 28.09.2015 issued by the Director, Centre for Academic Courses, Anna University. Since the petitioner did not complete his course within the specified minimum number of Semesters + one year, I Class was not awarded to him.

6. The fourth respondent has filed counter affidavit stating that the admission approval for M.Arch of the petitioner was not

accorded to the petitioner as he had not submitted all the original documents including the Semester mark sheets of the qualifying B.Arch degree at the time of verification of Certificates to ascertain his eligibility. As per the procedures followed, obtaining approval from the Directorate of Technical Education for admission into various programmes, was the responsibility of the Principal of the concerned institution, who admitted the petitioner by submitting all necessary documents to the Directorate of Technical Education pertaining to educational qualifications of admitted students for M.Arch programme. Due to non-production of original certificates during the scheduled certificate verification process, the Directorate of Technical Education was unable to ascertain the petitioner's eligibility in order to give admission approval to him as per norms. Further, permitting the petitioner to appear for the Semester examinations would lead to a bad precedent and against the procedures followed.

7. It is further stated by the fourth respondent in the counter that the petitioner was not entitled to write his I Semester Examination and he was permitted to write it only on the interim order of this Court, dated 18.01.2012 in W.P.No.1204 of 2012 subject to the outcome of the final order in the said Writ Petition. The delay in giving approval was not on the part of the Directorate of Technical Education, but on the part of the petitioner in not submitting the certificates and statements of marks to admitting authorities such as Principal of the fifth respondent-institution at the time of admission and then to approval authorities. Subsequently, the I Semester result of the petitioner was declared on 07.03.2013 and he has applied for re-admission to II Semester on 30.11.2013 as per the Regulations in force, as there was a break in his studies for nearly two years. The approval for re-admission to continue his studies in II Semester was accorded by the Directorate of Technical Education, vide proceedings dated 11.03.2014 in the subsequent academic years. Hence, the classification of degree is made by the University as per the Regulations in force and the claim of the petitioner to correct his Degree Certificate from II Class to I Class is not possible and not valid as per the Regulations of the University in force.

8. The fifth respondent has filed counter affidavit stating that the delay in approving the admission of the petitioner is due to the introduction of the new Regulations, whereby the Flexible Mode was abolished and it was converted into Part-Time Mode during the Academic Year 2013-2014. The petitioner wrote his I Semester Examination in November 2011 and wrote his II Semester Examination in June 2014, which is due to delay in approving his admission in the fifth respondent-institution, despite submitting the consolidated mark sheet of the petitioner

required by the fourth respondent in October 2012 itself. The petitioner having secured 7.55 CGPA in M.Arch Environmental Architecture (Part Time) Course, is entitled to be declared to have passed the examination in I Class instead of II Class without giving effect to the period of delay caused in approving the petitioner's admission in the said course. The petitioner having passed his post-graduate programme with 7.55 CGPA, is entitled for I Class instead of II Class, because he has completed the course on his approval of admission in the said course by the fourth respondent. The petitioner has completed his course in his first attempt itself.

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

10. The petitioner was admitted into M.Arch Course subject to the production of necessary mark sheets. According to the petitioner, even though he has produced the mark sheets, no orders have been passed by the authorities within the stipulated period by the Directorate of Technical Education, as per the order of this Court, dated 03.08.2012 in W.P.Nos.1204 and 16301 of 2012. Learned counsel for the respondents 1 to 3 /Anna University relied on Regulations 16.1 to 16.3 of the Regulations of the University, and for the sake of convenience, it is useful to extract them hereunder:

Regulation 16.1: A candidate who qualifies for the award of the Degree (vide Clause 15) having passed the examination in all the courses in his/her first appearance within the specified minimum number of semesters securing CGPA of not less than 8.50 shall be declared to have passed the examination in First Class with Distinction. For this purpose the withdrawal from examination (vide clause 17) will not be considered as an appearance. Further, one year authorised break of study (if availed of) is permitted in addition to specified minimum number of semesters for award of First Class with Distinction.

Regulation 16.2: A candidate who qualifies for the award of the Degree (vide Clause 15) having passed the examination in all the courses within the specified minimum number of semesters plus one year (two semesters), securing CGPA of not less than 6.50 shall be declared to have passed the examination in First Class. For this purpose, one year authorised break of study (if availed of) or prevention from writing the End Semester examination due to lack of attendance (if applicable) is included within the specified minimum number of semesters plus one year (two semesters).

Regulation 16.3: All other candidates who qualify for the award of the degree but not covered in clauses 16.1 and 16.2 shall be declared to have passed the examination in Second Class."

11. It is not in dispute that the petitioner has secured 7.55 CGPA marks. A reading of the said Regulation 16.1 makes it clear that the person will have to secure 8.50 CGPA marks with authorised break up of one year and that student will have to be declared as passed in the examination in I Class with Distinction and hence, the said provision is not applicable to the petitioner. This fact has been admitted by the petitioner.

12. It is the contention of the learned counsel for the petitioner that as the petitioner has secured 7.55 CGPA marks, he is entitled to I Class grade. As there is a difference between Regulation 16.1 and Regulation 16.2, namely the former deals with I Class with Distinction and the latter deals with I Class, and whether the petitioner would be entitled to be declared to have passed his examination in I Class or not, is the moot question, for consideration of which, it is necessary to refer Regulation 16.3 also, as extracted supra.

13. Though the contention of the petitioner appears to be valid, no person shall be entitled to be admitted into the course unless there is approval of his admission. The petitioner ought not to have been admitted into the course, as he has not produced the relevant documents at the time of admission as per the requirements regarding admission. The petitioner, having been admitted into M.Arch Course, and that pursuant to the interim order of this Court, he has also written his I Semester examination, even though in the counter affidavit of the fifth respondent-College, the fifth respondent-College supports the case of the petitioner, from a reading of the Regulations of the University extracted supra, it is clear that the Course will have to be completed within the specified number of Semesters plus one year (two Semesters) (if availed of). Hence, as there was no approval of his course and that the petitioner has been permitted to take up the examination only based on the interim order of this Court, that will not confer any right on the petitioner to seek for declaration that he has passed the examination in I Class. Though there is a difference between the Regulations 16.1 and 16.2 as extracted supra, as there was a break up in the approval of the course, and that the Course was approved only in 2014, even though the petitioner has secured 7.55 CGPA marks, he cannot be declared to have passed in I Class in terms of Regulation 16.3. Admittedly, the petitioner has been admitted into the course without the approval of his admission initially as per the requirements and hence, he is not entitled to be awarded I Class.

14. With the above observations, the Writ Petition is dismissed. No costs. Consequently, W.M.P. is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

CS

To

1.The Directorate of Technical Education,
Represented by its Commissioner,
Anna University Campus,
Guindy, Chennai-600 025.

2.The Registrar,
Anna University,
Anna University Campus,
Sardar Patel Road,
Guindy, Chennai-600 025.

3.The Director,
Centre for Academic Courses,
Anna University,
Sardar Patel Road,
Guindy, Chennai-600 025.

4.The Controller of Examination,
Anna University,
Sardar Patel Road,
Guindy, Chennai-600 025.

+1cc to Mr.S.Sathiyarajan, Advocate, S.R.No.26136

+1cc to Mr.R.Gopinath, Advocate, S.R.No.26137

+1cc to Mr.M.Vijayakumar, Advocate, S.R.No.26095

W.P.No.19062 of 2017

EV(CO)

RRK(15/05/2018)