

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.18396 of 2018

and

W.M.P.No.21705 and 21706 of 2018

P.Shanmugavalli

.. Petitioner

Vs.

1. Anna University,
Rep. by its Registrar,
Guindy, Chennai-600 025.

2. Controller of Examinations,
Anna University,
Guindy, Chennai-600 025.

.. 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 records of the second respondent in its proceedings in MEMO No.Syn/ME/MTECH/2017, dated 23.04.2017 and in letter No.53333/JS/GOV/REPLY/2018, dated 08.01.2018 and quash the respective orders therein and further direct the respondents to release the mark sheets for M.E. degree.

For petitioner : Mrs.P.Srividhya

For respondents: Mr.M.Vijayakumar

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent in its proceedings in MEMO No.Syn/ME/MTECH/2017, dated 23.04.2017 and in letter No.53333/JS/GOV/REPLY/2018, dated 08.01.2018 and quash the respective orders therein and further direct the respondents to release the mark sheets for M.E. Degree.

2. The case of the petitioner is that she has got admission for M.E. in Anna University and was admitted in the Engineering College for the academic year 2014-2016. It is a two year course. The petitioner got employment as Lecturer in Mechanical Engineering in S.A.Polytechnic College. The petitioner joined the regular M.E. course and applied for leave in the post of Lecturer and she was relieved from the post of Lecturership by

order dated 28.02.2015. As some people were jealous against the petitioner's qualification/higher education/employment, the same has resulted in issuance of show cause notice, dated 19.05.2015 for the alleged violation of the Regulations on the ground that she was working as a Teaching Faculty on Full Time basis in S.A.Polytechnic College, while studying as Full Time student in M.E. at S.A.Engineering College and she was called for explanation. The petitioner has sent a reply on 01.06.2015 to the University. The petitioner has written all the four semesters from 2014. The second respondent, by proceedings dated 23.04.2017, cancelled all the examinations appeared by the petitioner. Challenging the said order, the petitioner has made a representation to the authority on 11.12.2017. On 08.01.2008, the second respondent confirmed the earlier order dated 23.04.2017. Aggrieved by the above two orders, the present Writ Petition is filed by the petitioner for the relief stated supra.

3. The respondents have filed counter affidavit stating that similar issue came up before this Court and the Division Bench of this Court has categorically held that the administrative decision unless mala-fide, cannot be interfered with. The Division Bench considered the full time and part time course and rendered a finding and the relevant paragraphs in W.A.No.1553 of 2010, etc. (P.Padma and others Vs. The Vice Chancellor, Anna University, Madras -25 and two others), dated 02.12.2010, read as follows:

"25. The appellants have no case that they were not heard before taking a decision by the University. Admittedly, show cause notice was issued to the concerned candidates and their explanations were also called for. The appellants were given a personal hearing by the University. The materials furnished by the appellants confirmed the fact that while simultaneously working as full time faculty members, they have pursued I to III semesters in M.E. Computer Science and Engineering as Full Time Scholars.

26. The term "Full time" implies occupying the whole of the time, whereas "part time" denotes part of the usual working day. Therefore, the very term " Full Time" indicates that a full timer should be available in the institution during the complete working hours. It is not possible for a full time employee to undergo a full time regular course, as it would be difficult for him to attend the classes regularly on a full time basis. There is no question of a regular employee attending the regular full

time classes elsewhere. Even in the same city, it would be impossible. In such cases, the candidate has to choose either employment or education. In case the faculty members or other employees are permitted to attend regular colleges, it would undermine the standard of education. Therefore, there is nothing wrong in the decision of the University that students who have undergone the full time course while simultaneously working as full time faculty members would not be permitted to appear for the semester examination or to enter the next semester.

27. This Court is concerned only with the decision making process. In matters like this, the role of the Court is very limited. Anna University Act and the Regulations gives authority to the University to permit students to appear for the examination on fulfilling certain conditions. It is for the University to decide as to whether such mandatory conditions were satisfied by the respective candidates. The University appointed an expert committee and collected materials and it was only on the basis of such materials, a decision was arrived at to punish the appellants. The learned single Judge has considered the entire materials and arrived at a correct conclusion.

28. In the upshot, we dismiss the writ appeals. No costs."

4. It is further evident from the counter that as against the above said order of the Division Bench of this Court, appeal was preferred before the Supreme Court and the Supreme Court declined to interfere with the action taken by the University.

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

6. It is not in dispute that the petitioner has joined M.E. (Full time) (CAD/CAM) full time course and was simultaneously a full time faculty member in S.A.Polytechnic College. It is to be noted that a person who is a full time faculty member, cannot at the same time, pursue a full time degree course. In this case, the petitioner has joined the course in 2014 and in the midst of the course, she applied for leave to get relieved. Even thereafter, without any sanction/permission, she continued the course. Moreover, the petitioner has pursued the full time M.E.

course, while simultaneously working as full time faculty member. The relevant Rules and Regulations of the Anna University does not permit to do the full time course, and the same is not valid in the eye of law and the degree, if any obtained is a void degree, i.e. P.G. Degree obtained as such for the academic course 2014-16, is a void one and that the second respondent is fully justified in passing the impugned order dated 08.01.2008, cancelling all the examinations appeared by the petitioner/student and directed to re-do the course afresh. Hence, the petitioner's request that she may be permitted to continue her course, cannot be acceded to.

7. The University/institution and the recognition authorities must ensure that no teacher/professor is permitted to do the full time course without obtaining prior permission from the University/College. Otherwise, that will give a wrong signal and that for the sake of convenience, the student may be asked to be a Professor for the purpose of showing the strength and the institution may get the approval/recognition from AICTE and simultaneously allow them to study full time course. This practice is deprecated.

8. Hence, for the reasons stated above, the Writ Petition is dismissed. Since the petitioner's P.G. Degree cannot be used for any purpose and that the entire examination written by her had been rightly cancelled, the petitioner is deemed to have not pursued M.E. course for the academic year 2014-2016. The entire fees paid by the petitioner/student needs to be returned and the petitioner may make a representation in that regard to the College, which shall be considered in the light of the fact that this Court has confirmed the order cancelling the examinations written by the petitioner who has pursued the full time course while simultaneously working as Faculty member by violating the relevant Rules and Regulations. No costs. Consequently, W.M.Ps. are closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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+1cc to Mr.P.SRIVIDHYA, Advocate, S.R.No.49690

+1cc to Mr.M.VIJAYAKUMAR, Advocate, S.R.No.50198

W.P.No.18396 of 2018

MG (CO)

TR(14/08/2018)