

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.Nos.2557 of 2013 & 135 of 2016
& W.M.P.Nos.1,2 & 3 of 2013

P.Arockiaselvi ... Petitioner in both WPs.

Vs

1. The Registrar,
Tamilnadu Teachers Education University,
Lady Willingdon College Campus,
Kamarajar Salai,
Chennai - 600 005.
2. The Principal,
St.Stephens College of Education for Women,
Hosanna Mount,
New Natham Road,
Kodavur, Chatrapathy (Post)
Madurai - 625 014. ... Respondents in both Wps.

Prayer in W.P.No.2557 of 2013: Writ Petitions filed under Article 226 of the Constitution of India, seeking for an issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent pertaining to the order of rejection dated 5.12.2012 No.TNTEU/R/Eligibility CC/11219/2012/2404 rejecting the application of the petitioner for B.Ed., English Degree Programme with the 2nd respondent.

Prayer in W.P.No.135 of 2016:Writ Petitions filed under Article 226 of the Constitution of India, seeking for an issuance of Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 24.07.2015, received by the first respondent on 27.07.2015.

For Petitioner in both WPs	: Mr.V.Anand
For R1 in both WPs	: Mr.U. Venkatesan
For R2 in both WPs	: No Appearance

ORDER

The brief facts that are necessary for disposal of these writ petitions are as follows:

The petitioner has got admission to B.Ed Degree Course during the academic year 2012-2013 in the second respondent College. However, the admission has not been approved by the first respondent University. The impugned order dated 05.12.2012 has been issued to the second respondent by the first respondent informing the non approval of petitioner's admission. The said impugned order has been challenged by the petitioner in the Writ petition in W.P.No.2557 of 2013. It is stated in this impugned order that the petitioner has passed B.A.(English) degree under lateral entry programme, which is not a 3 years course and that therefore, she is not eligible.

2. When the said Writ Petition came up for admission, this Court, by order dated 01.02.2013 admitted the Writ Petition in W.P.No. 2557 of 2013 and granted an order of interim direction as prayed for in the Miscellaneous Petition in M.P.No. 3 of 2013. Based on the interim direction, the petitioner has appeared for the subsequent examination. However, the result was temporarily withheld. In the mean while, the petitioner has appeared for the Teachers Eligibility Test (T.E.T) and in that, she has obtained 84 marks. The petitioner has also joined three years regular course in B.A to get a degree and she is stated to have completed three years regular course. Stating that the petitioner is qualified to get admission as per the rules, the petitioner has submitted a representation on 24.07.2015 to the respondents requesting to consider and issue B.Ed certificate to enable the petitioner to get teacher's post. Since, the representation has not been considered, the petitioner has come forward with the second Writ petition in W.P.No.135 of 2016 to direct the first respondent to consider his representation.

3. The Petitioner has passed 10th standard examination in April 1991 and she has also passed in 12th examination in March 1993. Thereafter, she enrolled herself and obtained B.A Degree course in Political Science from Madurai Kamarajar University in April 2003. The petitioner has got admission in B.Ed Course in the second respondent college. After scrutinizing the application filed by the petitioner, since the petitioner had only an Additional Degree in BA English with the duration less than three years, she was found ineligible for admission in B.Ed Degree course.

4. The reason for the rejection of the petitioner's application by first respondent dated 05.12.2012 is that the petitioner is not qualified as her Additional Degree in B.A English, is not a regular course, but with duration of one year. Secondly, it is stated that for a person, who seek admission in B.Ed Political Science, she/he should have a post graduate Degree. Challenging the notice dated 05.12.2012 passed by the first

respondent, the petitioner has filed the Writ Petition in W.P.No. 2557 of 2013.

5. The learned counsel appearing for the first respondent would submit that the Government has issued G.O.MS.No.115 dated 28.06.2012, clearly describing the eligibility guidelines for admission during the academic year 2012-2013. As per the guidelines of the Government, it is mandatory for admission in B.Ed Political Science that the candidate should have possessed Post Graduate degree in Political Science. Further, it is also made clear that candidates, who have passed Additional Degree Programme, which is less than three years duration, are not eligible for admission. The petitioner admits that she has obtained the Additional Degree in B.A., English, which is one year course. However, she has a regular degree in B.A.(Political Science). But, candidate having post graduate degree in Political Science alone can seek admission to B.Ed. (Political Science). Hence, the petitioner is not eligible to get admission for B.Ed., degree course in Political Science.

6. However, it is admitted by the petitioner that by virtue of the interim direction passed by this Court on 01.02.2013 in M.P.No. 3 of 2013 in W.P.No. 2557 of 2013, the petitioner has completed the B.Ed. Course. She has completed regular B.A.(English) course and the University has withheld the result. Hence, the petitioner has filed the Writ Petition in W.P.No. 135 of 2016 seeking issuance of a Writ of Mandamus, directing the first respondent to consider her representation dated 24.07.2015, which was received by the first respondent, regarding issuance of certificate for completing B.Ed Course.

7. As stated by the first respondent, as per G.O.MS.No.115 dated 28.06.2012, the candidate holding Post Graduate Degree only can opt for B.Ed in subject like Home Science, Economics, Commerce, Political Science, etc,. Further, the petitioner has only got an Additional Degree in B.A English, which is not a regular Bachelors Degree for the duration of three years, but a short term course for one year. The petitioner does not have a Post Graduate Degree and hence not eligible for admission to B.Ed Course in Political Science. In such circumstances, the petitioner is not entitled to get a direction before this Court.

8. The learned counsel for the petitioner however states that the petitioner has been allowed to continue the course to write his examination, and that therefore, she is entitled to get the course certificate from the first respondent. In support of his contention, he relied upon the Judgement made in CBSC. Vs. P. Sunil Kumar reported in 1998 5 SCC 377, wherein the Hon'ble Supreme Court has held that to permit students of an unaffiliated institution to

appear in the examination conducted by the Board under orders of the Court and then compel the Board to issue Certificate in favour of those who have undertaken examination would tantamount to subversion of law and this court will not be justified to sustain the orders issued by the High Court on misplaced sympathy in favour of the students. Hence, the judgment is against the petitioner.

9. Even in a case, where admission of students was done by private institution, the Hon'ble Supreme Court has stated that condoning the lapse and legal requirements and consideration of mere sympathy factor alone, does not solve the problem, rather breeds more violations in the hope of being condoned. It is further observed by the Hon'ble Supreme Court that such interim order disturbs the system and ultimately, adversely affects the academic standards. In *CBSC. Vs. P. Sunil Kumar Case* reported in 1998 5 SCC 377, the Hon'ble Supreme Court has held as follows.

"We are afraid that this kind of administration of interlocutory remedies, more guided by sympathy quite often wholly misplaced, does no service to anyone. From the series of orders that keep coming before us in academic matters, we find that loose, ill-conceived sympathy masquerades as interlocutory justice exposing judicial discretion to the criticism of degenerating into private benevolence. This is subversive of academic discipline, or whatever is left of it, leading to serious impasse in academic life. Admissions cannot be ordered without regard to the eligibility of the candidates. Decisions on matters relevant to be taken into account at the interlocutory stage cannot be deferred or decided later when serious complications might ensue from the interim order itself. In the present case, the High Court was apparently moved by sympathy for the candidates than by an accurate assessment of even the Prima Facie legal position. Such orders cannot be allowed to stand. The courts should not embarrass academic authorities by themselves taking over their functions."

10. The Hon'ble Supreme Court has therefore repeatedly held that the students who are allowed to appear in view of the interim orders granted by the Court in contravention of the rules and regulations for admission cannot be permitted them to complete the course as it would amount to subversion of law.

11. A Division Bench of this Court in the case of University of Madras Vs. Loordhu Ammal Educational Trust and others in W.A.No. 838 of 2005, after following the earlier judgement of Hon'ble Supreme Court referred to by the learned counsel for the petitioner, has refused to grant any leave to the petitioner, on the basis of the interim order passed by this Court. Hence, both Writ petitions are dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

rpl/mpa
To

1. The Registrar,
Tamilnadu Teachers Education University,
Lady Willingdon College Campus,
Kamarajar Salai,
Chennai - 600 005.

+1cc to Mr.U. Venkatesan , Advocate SR.No. 62324
+1cc to Mr.Mr.V.Anand , Advocate SR.No. 62821
+1cc to M/s.Packianathan Easter , Advocate SR.No. 62822

W.P.Nos.2557 of 2013 & 135 of 2016
& W.M.P.Nos.1,2 & 3 of 2013

ASK(29/09/2018)

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