

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2018

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No. 25145 of 2018
and WMP. No.29216 of 2018

S.Hari Prasad

...Petitioner

Vs.

1. The Registrar,
Bharathiar University,
Coimbatore.
2. The Principal,
Sri Krishna College of Arts and Science,
Coimbatore.

...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the 2nd respondent to condone the shortage of attendance and to regularize the petitioner's attendance for the 3rd semester academic year 2018-19 and permit him to appear in the 3rd semester examinations to be held in October 2018.

For Petitioner : M/s.N.Kavitha Rameshwar

For Respondents : Mr.S.Mukunth
for M/s.Sarabhuman Associates, for R1

O R D E R

The petitioner is a student of the second respondent-Institution and he has filed this Writ Petition to condone the shortage of attendance and to regularize his attendance for the 3rd semester in academic year 2018-19 and permit him to appear in the 3rd semester examinations to be held in October 2018.

2. Admittedly, the petitioner is a second year student and he is pursuing B.Sc. Information Systems Management. It is stated by the petitioner that on 30.06.2018, in the early morning, he went out with his friend in his car, and that they were apprehended under the pretext of committing a crime of kidnapping. The petitioner further stated that he was unaware of the alleged offence or the incident or the people involved

therein in any manner whatsoever.

3. It is the further case of the petitioner that he was apprehended and his car was seized. The petitioner was detained under the custody on 05.07.2018 and later he was remanded to judicial custody on 06.07.2018. The petitioner was granted bail by this Court only on 04.09.2018 in Crl.O.P.No.21306 of 2018. Since the petitioner was in custody from 05.07.2018 to 04.09.2018 (nearly two months), the petitioner did not have the required attendance for writing third semester examinations. Therefore, the petitioner has prayed for condonation of 60 days during which, he was unnecessarily detained in custody.

4. The learned counsel for the petitioner admits that the second respondent-College has power to condone the shortage of attendance for admitting the students for University examinations, only up to 10 days that too after giving valid reasons.

5. From the facts narrated above, it is seen that the petitioner did not have the minimum percentage of attendance so as to seek permission for condonation of shortage of attendance.

6. The learned counsel for the petitioner relied upon the judgment of this Court in the case of Jeyapaul and others vs. Principal, Karpagam University, reported in 2015 (0) Supreme Mad 200. This Court is of the view that the judgment relied upon by the counsel appearing for the petitioner has no application to this case and rather it is against the petitioner. In the judgment, it is seen that the defacto complainant therein had given a statement that he is not interested to pursue the complaint against the petitioners therein. This Court, in the said case, while considering the facts, found that 2 of the 7 petitioners have the percentage of attendance above 78% as on date when the petitioners therein were apprehended. Hence, this Court granted permission only to those two candidates to appear for the examinations. In respect of the petitioners, who had very poor attendance, this Court refused to grant permission to them and in respect of other students, whose attendance were moderate and who are likely to come within the condonable limit, the respondent-University was directed to condone the minimum required attendance as per the Regulations and permit them to appear for the examinations, if they specifically satisfy the requirements of the Regulations of the respondent-University.

7. In this case, having regard to the admitted facts, it is doubtful whether the petitioner will be eligible to get the condonation for minimum requirement in his favour. Hence, no positive direction can be issued.

8. The facts of the case has not been accurately stated by the petitioner, so as to form a definite opinion regarding the eligibility of petitioner to seek condonation as per the Regulations of the University. This Court is also able to see that the petitioner has made a representation to the respondent-College. The petitioner himself admits that the second respondent College can condone the shortage up to 10 days and even after getting the condonation from the second respondent, he does not have the required attendance.

9. In view of the above, this Court direct the petitioner to make a representation to the first respondent on or before 27.09.2018 regarding the condonation of shortage of attendance. The first respondent is directed to consider the representation of the petitioner to condone the shortage of attendance to attend for University examinations, if it is permissible in accordance with the University Regulations and the said representation should be considered in accordance with the relevant statutes or Regulations of the University. The University shall pass appropriate orders on merits and in accordance with law, on or before 03.10.2018.

10. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Registrar,
Bharathiar University,
Coimbatore.

+1cc to Mr.N.Kavitha Rameshwar, Advocate, S.R.No.65866

W.P.No. 25145 of 2018

BR(CO)
GSP(25/09/2018)