

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.26910 of 2018

1. S.Ameena Aafiya
 2. A.Angulakshmi
 3. V.Ayushi
 4. S.Lavanya
 5. S.Neeraj Kumar
 6. S.Prasanna Kumar
 7. S.Roshan
 8. G.B.Shangeetha
 9. S.Subiksha
 - 10.V.Uvashri @ Yashini
- ... Petitioners

-vs-

1. The Director of Technical Education
Guindy, Chennai 600 025
 2. The Controller of Examinations
Anna University
Guindy, Chennai 600 025
 3. The Chairman
MNM Jain School of Architecture
Jothi Nagar, Thoraipakkam
Chennai 600 097
- ... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the entire records in connection with the impugned letter dated 11.9.2018 in Lr.No.38409/COE/C70/ MP/2018 of the second respondent and quash the same and consequently direct the respondents 1 and 2 to permit the petitioners to appear for the viva-voce examinations to be held from 22.10.2018 onwards.

For Petitioners:: Mr.M.Sriram

For Respondents:: Mr.K.Karthikeyan
Government Advocate for R1
Mrs.Narmadha Sampath
Additional Advocate General
assisted by Mr.M.Vijayakumar
Standing Counsel for R2
Mr.G.Sankaran for R3

ORDER

This writ petition has been filed challenging the impugned order passed by the Controller of Examinations, Anna University, Chennai in Letter No.38409/COE/C70/MP/2018 directing the Director, MNM Jain School of Architecture, Jothi Nagar, Thoraipakkam, Chennai to obtain proper orders from the Directorate of Technical Education and the Director of Student Affairs for the re-admission of the students (petitioners herein) for the lack of attendance for the respective semesters and allow them to continue their education as well to give break of study to all students mentioned therein with immediate effect under intimation to the office of Controller of Examinations, Anna University, Chennai.

2. Learned counsel for the petitioners pleaded that all the petitioners are students who were admitted in Bachelor of Architecture (B.Arch) course for the academic year 2015-16 and the course will be completed in the year 2019-20 and presently they are undergoing the fourth year internship (VII semester). They have also completed the V and VI semesters and thereafter, the respondents also declared their results conducted in the year 2017-18. Now they have to attend the VII semester viva-voce examination. Since there were some problems in preparing the details of the petitioners before feeding in the website, it was learnt that 29 students out of 39 were permitted to write the VII semester examination and for the remaining 10 students, there are certain issues. Therefore, their details were not fed in the website. This being a surprise to the petitioners, they immediately approached the Chairman, MNM Jain School of Architecture, Chennai, the third respondent herein. Some of the students also gave medical certificates to condone their absence. Accepting their medical certificates, they were permitted to sit for the examination and continue their studies further. Since the third respondent committed certain errors and irregularities in not properly maintaining the attendance records for the batch of students admitted in 2017-18, without there being any intimation to the students who are lacking attendance, they were permitted to sit for the examinations. Again during the third week of September 2018, the third respondent informed the petitioners to bring their parents to meet the Director in respect of issuance of the hall tickets. Accordingly, all the students with their parents met the Director, who informed them that only 29 students were permitted and the remaining 10 students, namely, the petitioners herein are not permitted due to the lack of attendance for the previous semesters. Again there was no proper particulars furnished to the petitioners, except stating that the matter would be resolved at their end with a further request to the parents of

the petitioners to wait for some time.

3. When the matter stood as above, on 5.10.2018, the third respondent orally informed the petitioners that there was no possibility of issuance of hall tickets to the petitioners for the viva-voce examination. Finally the third respondent also gave a copy of the impugned letter dated 11.9.2018 sent by the second respondent stating that in respect of 10 students, they were lacking in attendance in the V and VI semesters and therefore they should be given a break of study with immediate effect. Aggrieved by the impugned order, the present writ petition has been filed.

4. Learned counsel for the petitioners further submitted that at no point of time, the second respondent, before passing the impugned order, issued notice calling for any explanation whatsoever from the petitioners who are the affected students. Adding further, he has submitted that all the petitioners have been attending the classes, since some of them did not attend the first hour class, however, they attended the second and third hour classes. But sadly, the third respondent college, without even taking note of the fact that the students who failed to attend the first hour class, have attended the second, third and subsequent class hours, blindly followed the attendance marked in the first hour class, as a result the students who attended the second, third and subsequent class hours were also made to get no attendance and this has been properly brought to the notice of the third respondent. When the master record of attendance, which is also properly maintained by the third respondent college, has not been taken note of, after properly carrying out both the first hour class and the remaining hours class attendance, due to the said irregularities, without even receiving any details or information as to how long or how many days they did not attend the classes, have been denied permission to sit for the viva-voce examination in VII semester. Taking support from the Anna University Regulations 2013, more particularly, Regulations 4.2, 4.3, 6 and 8.1, Mr.M.Sriram heavily submitted that as per Regulation 4.2, each semester shall normally consist of 90 working days or 510 periods each of 50 minutes duration and the Head of the institution shall ensure that every teacher imparts instruction as per the number of periods specified in the syllabus and that the teacher teaches the full content of the specified syllabus for the course being taught. Again Regulation 4.3 states that the Head of the institution may also conduct additional classes for improvement, special coaching, conduct of model test etc., over and above the specified periods and for the purpose of calculation of attendance requirement for writing the end semester examinations (as per clause 5) by the students, a method also is directed to be followed, namely,

percentage of attendance equals total number of periods attended in all the courses per semester divided by (number of periods/week as prescribed in the curriculum) multiplied by 15 taken together for all courses of the semester, multiplied by 100. In addition thereto, Regulation 6 also shows that there shall be a class advisor for each class and the class advisor also will be one among the course-instructors of the class and he/she will be appointed by the HOD of the department concerned and that the class advisor is the ex-officio member and the convenor of the class committee. Apart from that, the class advisor also has been given certain responsibilities and one among them being to monitor the academic performance of the students including attendance and to inform the class committee. This also has not been followed.

5. Again assailing the impugned order, Mr.M.Sriram submitted that the conditions mentioned in Regulation 8.1 that every teacher is required to maintain the attendance record for each theory, theory cum studio class or studio and the test marks and the record of class work separately for each course and this also should be submitted to the HOD periodically, atleast three times in a semester for checking the syllabus coverage and the record of test marks after due verification. This also has not been followed. When the procedures contemplated in the aforementioned regulations have not been properly examined by the second respondent by inspecting the third respondent college regularly, all of a sudden, they cannot, only on the basis of some enquiry report in which the affected students were not even given any notice of such enquiry, pass any order, as it is not known what transpired between the enquiry officer and the faculty members of the third respondent college. Therefore, when ultimately the students who have attended the classes were deprived of participating in the viva-voce in the VII semester, the impugned order has to go, as it is running contrary to the principles of natural justice. Moreover, the affected students have not been issued with any notice either by the third respondent or the second respondent. Hence, in any event, the impugned order is liable to go with a direction to the respondents to permit the petitioners to participate in the viva-voce with a consequential direction to the third respondent to conduct the same. Concluding his arguments, the learned counsel submitted that when the third respondent college also, based on the attendance register, allowed all the students including the petitioners herein to write the V and VI semester examinations and consequently all the petitioners also wrote the examination and secured a Pass. That shows that they had attended the classes as, without seriously preparing and pursuing the studies, they would not have passed the examinations.

6. The learned Additional Advocate General appearing for the second respondent, intervening at this stage, submitted that the pass mark secured by the petitioners would reveal that their internal marks have been boosted and there is one another allegation to be put not only against the petitioners, but also against the management and the faculty members for unnecessarily boosting the marks in the internal examination and this made the petitioners to pass the examinations without even attending the classes.

7. A detailed counter affidavit also has been filed by the second respondent. Taking support from the averments made in the counter affidavit, replying to the contention made by the petitioners that they were not given any notice whatsoever which would amount to flagrant violation of the principles of natural justice, the learned Additional Advocate General submitted that so far as this case is concerned, proper enquiry was conducted by issuance of notice to the concerned faculty members who were responsible for boosting of the internal marks and also for tampering the attendance record. Therefore, the question of giving notice to the petitioners does not arise. Even one of the faculty members, during the enquiry, has also fairly admitted that some irregularities have taken place. The learned Additional Advocate General further submitted that in the enquiry, the faculty members themselves have stated that nonetheless they have given the correct and actual attendance showing the shortage of attendance for all the petitioners and the petitioners themselves were aware that Mrs.K.Bhama had tampered with the attendance and marks in favour of few students including the petitioners. Therefore, the ratio laid down by the Apex Court in the case of All India Council for Technical Education v. Surinder Kumar Dhavan and others, (2009) 11 SCC 726 holding that the role of statutory and expert bodies for education for maintaining high standards in education having been followed, cannot be set at naught. When it was found in the enquiry that all the petitioners failed to secure the requisite attendance, the impugned order has been passed. Finally she pleaded that although the petitioners wrote the V and VI semester examinations and subsequently the results were also declared in their favour, they should be directed to re-do the V and VI semesters to maintain discipline.

8. Mr.G.Sankaran, learned counsel for the third respondent college submitted that even the letter dated 21.8.2018 jointly given by R.Rupa and K.Jaishwin Kumaar, faculty members of the college, clearly indicates that the attendance in the log book was not used to upload in the Anna University web portal. If the respondents had entertained a doubt, they could have summoned the log book maintained by the third respondent college in respect of the attendance and cross checked the same

to ascertain whether the same has been uploaded in the University website.

9. In reply, the learned Additional Advocate General submitted that the further paragraph of the letter jointly given by the faculty members R.Rupa and K.Jaishwin Kumaar shows that they were not allowed to upload the internal mark as per the HOD office. The reason being that they were neither allowed to monitor the marks while uploading in the Anna University web portal nor they were given a chance to verify the uploaded marks against the marks actually given by the faculty members. Again referring to the letter dated 27.8.2018 given by K.Bhama, HOD of the third respondent college, the learned Additional Advocate General attempted to impress upon this Court that the actual attendance reflected in the book in respect of V and VI semesters for the petitioners would show that they have secured less than the requisite 75% attendance for writing the V and VI semester examinations.

10. Heard learned counsel for the parties.

11. To answer the issues raised in this writ petition, it is relevant to extract Regulations 4.2, 4.3, 6 and 8.1 of the Anna University Regulations 2013, which read as follows:-

"4.2. Each semester shall normally consist of 90 working days or 510 periods each of 50 minutes duration. The Head of the Institution shall ensure that every teacher imparts education as per the number of periods specified in the syllabus and that the teacher teaches the full content of the specified syllabus for the course being taught.

4.3. The Head of the Institution may conduct additional classes for improvement, special coaching, conduct of model test etc., over and above the specified periods. But for the purpose of calculation of attendance requirement for writing the end semester examinations (as per clause 5) by the students, following method shall be used.

Percentage of Attendance =

$$\frac{\text{Total no.of periods attended in all the courses per semester} \times 100}{\text{(No.of periods/week as prescribed in the curriculum)} \times 15}$$

taken together for all courses of the semester

6. Class Advisor

There shall be a class advisor for each class. The class advisor will be one among the (course-instructors) of the class. He/she will be appointed

by the HoD of the department concerned. The class advisor is the ex-officio member and the Convener of the class committee. The responsibilities for the class advisor shall be:

- To act as the channel of communication between the HoD and the students of the respective class.
- To collect and maintain various statistical details of students.
- To help the chairperson of the class committee in planning and conduct of the class committee meetings.
- To monitor the academic performance of the students including attendance and to inform the class committee.
- To attend to the students' welfare activities like awards, medals, scholarships and industrial visits.

8. Procedures for awarding marks for internal assessment and mode of evaluation

8.1 Every teacher is required to maintain a 'ATTENDANCE AND ASSESSMENT RECORD' which consists of attendance marked in each theory, theory cum studio class or studio, the test marks and the record of class work (topic covered), separately for each course. This should be submitted to the Head of the Department periodically (at least three times in a semester) for checking the syllabus coverage and the records of test marks after due verification. At the end of the semester, the record should be verified by the Head of the Institution who will keep this document in safe custody (for five years). The University or any inspection team appointed by the University may inspect both current and previous semester records of attendance and assessment."

12. In the present case, it is found that the second respondent miserably failed to satisfy whether the third respondent college had complied with the regulations 4.2, 4.3, 6 and 8.1 of the Anna University Regulations, 2013 in respect of the attendance to be maintained by the petitioners/students.

12.1. Secondly, none of the students who have been directed to re-do the V and VI semesters were issued with any notice whatsoever before passing the impugned order.

12.2. Thirdly, all the students including the petitioners have been allowed to write the V and VI semester examinations by the second and third respondents and they have also proved that the students were able to secure the pass mark, as could be evidently seen from the declaration of results published by the second respondent.

12.3. Fourthly, though it is claimed by the second

respondent that the petitioners failed to secure the requisite attendance and their internal examination marks have been boosted, they should have held a proper enquiry after issuing notice to the third respondent college and the students. In the present case, they failed to follow the principles of natural justice.

13. For all the aforementioned reasons, the impugned order is set aside and the writ petition stands allowed with a direction to the respondents to permit the petitioners to appear for the viva-voce examination in the VII semester. Needless to mention that at least in future, the second respondent shall undertake regular inspection in the third respondent college to maintain the standards. However, taking note of the fact that the students should not be made to suffer for the fault of the third respondent college, this Court is inclined to impose costs of Rs.50,000/- to be paid by the third respondent college to the Chief Minister's Relief Fund for the damage caused by the Cyclone Gaja, within a period of two weeks from the date of receipt of a copy of this order. Consequently, W.M.P.Nos.31268, 31276 and 31278 of 2018 are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Technical Education
Guindy, Chennai 600 025

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

+1cc to Mr.M.Vijaya Kumar, Advocate, S.R.No. 82156
+1cc to Mr.M.Sriram, Advocate, S.R.No. 82413
+1cc to Mr.G.Sankaran, Advocate, S.R.No. 82577
+1cc to the Government Pleader, S.R.No. 82980

W.P.No.26910 of 2018

SJ(CO)
GN(04/12/2018)