

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Appeal No.616 of 2018

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the Learned Single Judge in I.A.No.1 of 2018 in W.P.No.36533 of 2017 dated 04.04.2018. The appellant herein filed W.P.No.36533 of 2017 seeking a mandamus to declare the order passed by Chaitanya Bharathi Institute of Technology (2nd respondent herein) dated 06.07.2017 as illegal, arbitrary and violative of principles of natural justice. A consequential direction was sought to the respondents to permit the appellant-writ petitioner to pursue the III Year BE course, during the academic year 2017-18, at the 2nd respondent-college.

In his proceedings dated 06.07.2017, the Controller of Examinations of the 2nd respondent-college held that the appellant-writ petitioner had indulged in malpractice during the II Year II Semester BE (Civil) examinations held in May, 2017; he was given a chance to appear before the Committee on Malpractice in its meeting held on 07.06.2017; and the Committee, after examining all the evidence, available material and explanations submitted by the candidate, had decided to award punishment under the Regulations (malpractice rules) for conduct of examinations/schedule, in view of the nature of malpractice mentioned in the order. The punishment awarded, on the appellant-writ petitioner, was that he was debarred from appearing in the subsequent papers of the examination, apart from cancelling the result of the examination in which he/she had indulged in malpractice.

On the appellant-writ petitioner invoking the jurisdiction of this Court, an interim order was initially passed on 01.11.2017 permitting him to appear for the III Year I Semester examinations of B.E (Civil) Course at the 2nd respondent-college, provided he had the requisite attendance in the college. However, the result were directed not be declared.

As contempt proceedings were initiated against them, the 2nd respondent-college appears to have permitted the appellant-writ petitioner to appear for the I Semester, III Year examinations, even though the order of this Court required that he should have the prescribed attendance. It does not appear to be in dispute that the results of the III year I Semester examinations were not declared. Thereafter, the appellant-writ petitioner filed I.A.No.1 of 2018 to permit him to appear for the laboratory examinations scheduled to be held from 07.04.2018, and the theory examinations scheduled in May, 2018, pending disposal of the writ petition.

By the order under appeal, the Learned Single Judge directed the respondents to permit the appellant-writ petitioner to appear for the laboratory examinations, which were scheduled to be held from 07.04.2018, and the theory examinations scheduled to be held in May, 2018, provided he had the requisite attendance. The Learned Single Judge made it clear that, if he did not have the requisite attendance, he was not eligible to appear for the examinations.

Before us Sri M.V.Pratap Kumar, learned counsel for the appellant-writ petitioner, would submit that, since the 2nd respondent-college was at fault in imposing punishment on the appellant-writ petitioner, without giving him a reasonable opportunity of being heard, the condition imposed by the Learned Single Judge, that the appellant-writ petitioner should be permitted to appear for the examinations only

if he had the requisite attendance, should be deleted; and the appellant-writ petitioner should be permitted to appear for the III year II Semester examinations scheduled to be held in April/May, 2018 without any such conditions being stipulated.

On the other hand Sri S.Sriram, learned counsel for the 2nd respondent-college, would submit that any student, who has a backlog of nine subjects or more upto the end of the II Year, is not entitled, in terms of the Regulations governing the 2nd respondent-college, to be permitted to be promoted to the III Year; the appellant-writ petitioner has a backlog of one subject each in both the I and II Semesters of the I Year; he has two backlogs in the I Semester of the II year; and, in view of the punishment imposed on him, 9 backlogs in the II Year II Semester examinations, i.e a total backlog of thirteen papers. In the supplementary examinations, held in September, 2017, he cleared 3 backlog papers; and, since he still has ten backlog papers, he could not have been promoted to the III Year in the first instance, let alone appear for the III Year I Semester and the III Year II Semester examinations, apart from the fact that, in the light of the punishment imposed on him by the 2nd respondent-college, he was not permitted to attend classes in the III Year.

It is only if the appellant-writ petitioner clears atleast one more backlog paper, from out of the 10, would the total number of backlogs come down to 9; and it is only then would he be entitled to be promoted to the III Year in the academic year 2018-19. The Learned Single Judge was, in fact, liberal in granting the appellant-writ petitioner permission to appear for the III Year II Semester examinations if he had the requisite attendance as the Regulations of the 2nd respondent-college prohibits a candidate, who has 10 backlogs upto the II Year II Semester, from being promoted to the III year, and consequently from

appearing in the I and II Semester examinations of the III year. The very fact that Sri M.V.Pratap Kumar, learned counsel for the appellant-writ petitioner, seeks deletion of this part of the order, would show that the appellant-writ petitioner does not have the requisite attendance. In any view of the matter, the question of the appellant-writ petitioner being permitted to appear for the III Year I and II Semester examinations in April/May, 2018 does not arise.

Sri M.V.Pratap Kumar, learned counsel for the appellant-writ petitioner, would submit that, since the order of debarment was passed only in July, 2017, the appellant-writ petitioner was permitted to appear for the remaining II Year II Semester examinations in May, 2017 but his results were not declared; and, if the Writ Petition were to be allowed later, the order now passed by this Court would disentitle him to have the results of the II Year II Semester examinations, held in May, 2017, declared. Suffice it, therefore, to clarify that declaration of results, with respect to the II Year II Semester examinations which the appellant-writ petitioner appeared in May, 2017, shall be subject to the result of the Writ Petition.

The Writ Appeal is disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

19th April, 2018
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Date: 19.04.2018