

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.31572 & 34760 of 2018

COMMON ORDER:

As the issue involved in both these Writ Petitions is one and the same, they are being heard together and disposed of by way of this Common Order.

2. Both these Writ Petitions are filed assailing the action of the 2nd respondent college in formulating the Academic Rules i.e., Choice Based Credit System for the academic year 2016-17 for promotion of students whereby, the students/petitioners must have earned 49 credits of 1st semester and 2nd semester, together must have earned 73 credits over all till 4th semester, as being illegal and arbitrary and contrary to the Rules and Regulations framed by the 1st respondent-Osmania University.

3. Brief facts which are germane for disposal of these Writ Petitions are as follows:

The petitioners are pursuing the four year Bachelor of Engineering Undergraduate Programme at the 2nd respondent college. They have been admitted for various branches in the Bachelor of Engineering in different trades for the academic year 2016-17. The 2nd respondent college sought to introduce new Academic Rules where under it had formulated a Choice Based Credit System (for short 'CBCS') and that as per the said system every student

would be awarded credits for completion of each course undertaken by him in each semester and based on the number of credits completed by the student, degree is awarded to the student by the 1st respondent. By virtue of said Rules, for promotion from 2nd semester (1st year) to 3rd semester (2nd year), the students must have earned 24 credits and from 4th semester (2nd year) to 5th semester (3rd year), the students must have earned a minimum of 49 credits and put together, the students must have earned 73 credits till the completion of 4th semester. The 1st respondent, being the University to which the 2nd respondent is affiliated to award of degree, had already formulated the Rules and Regulations for Four year Bachelor of Engineering Degree Programme of Osmania University with effect from the Academic Year 2016-17 and that as per the Rules of 1st respondent, in order to be promoted from 1st year to 2nd year, he or she must have earned at least 50% of credits prescribed for 1st and 2nd semesters put together. A student can be promoted from 4th semester to 5th semester (3rd year), if the number of black logs if any of I, II, III, IV semesters put together shall not exceed 50% of the total number of credits prescribed for BE-III and IV semesters and that as per the Rules of the 1st respondent, a student can be promoted from 4th semester (2nd year) to 5th semester (3rd year), he ought to have

completed a minimum of 24 credits. That the prescription of different Rules of promotion to different years of students in the same college is without jurisdiction and also contrary to the rules of promotion framed by the 1st respondent. Aggrieved by the action of the 2nd respondent college in not allowing the petitioners to attend classes of the 2nd year and 3rd year and also not allowing them to write the semester examinations, the present Writ Petitions are filed.

4. This Court, by order dated 05.09.2018, granted interim order in I.A.No.1 of 2018 in W.P.No.31572 of 2018, directing the 2nd respondent to permit the petitioners in WP No.31572 of 2018, to attend classes, internal and external examinations for the 5th semester (3rd year-1st semester).

5. I.A.No.2 of 2018 is filed for vacating the interim order granted on 05.09.2018 in I.A.No.1 of 2018 in WP No.31572 of 2018 along with counter affidavit by the 2nd respondent, denying the averments in the affidavit filed in support of the Writ Petition stating that the Writ Petition is not maintainable either on law or on facts and same is liable to be dismissed in *limine*. It is stated that the 2nd respondent college was conferred the status of Autonomous College by the University Grants Commission in the year 2013 considering the quality of education imparted by it, academic reputation, previous performance, academic achievements, quality and merit in selection of students

and faculty, infrastructure and other requirements and same is in effect till date. After attaining autonomous status, the respondent college had constituted its own Governing Body, which is the highest authority i.e., Academic Council, Board of Studies and Finance Committee, as per the University Grants Commission Guidelines. The decision of Governing Body in respect of any aspect as suggested by the Academic Council & Board of Studies would be final and binding. This respondent being an autonomous college, is solely responsible for the purpose of structuring courses, structuring evaluation methods as well as for structuring in the promotional rules, which are part of evaluation methods and that with an intention to impart quality education, has introduced the CBCS from the academic year 2016-17. It is stated that after elaborate discussions and deliberations and after placing the same before the 1st respondent University, the academic Rules were approved by the Academic Council of the college and after its approval, the same were placed before the Governing Body of the college, which had approved the same. It is stated that at the time of joining the 2nd respondent college, each of the students who were taking admission into the 2nd respondent college in their respective academic years, were given a copy of the CBCS Academic Rules 2016-17 and the students were also clearly

explained about the same in the Orientation Programme conducted by the college and also that the said Rules are available in the website of the 2nd respondent college ever since they have come into effect. It is stated that the CBCS is for the benefit of the students to pursue their interests and that the same begins from II semester onwards. It is stated that since the petitioners having taken admission in the college with the knowledge about the Rules and Regulations, they are barred from challenging the same and cannot be allowed to challenge the Rules only because they failed to secure the prescribed credits, as such, they are not entitled to any relief in these Writ Petitions and sought for dismissal of the same.

6. Heard Sri V.Hari Haran and Sri K.Srikanth, learned counsel for the petitioners, Sri Ch.Jaganandha Rao, learned Standing Counsel for the 1st respondent-Osmania University, Sri A.Venkatesh, learned counsel for the 2nd respondent-College.

7. Learned counsel for the petitioners, while reiterating the averments in the affidavits filed in support of the Writ Petitions, submit that the CBCS Academic Rules, 2016-17 of the 2nd respondent are contrary to the Rules and Regulations of the 1st respondent University. They submit that the 2nd respondent college cannot amend or modify its Rules and Regulations for students of different years of the

same college. In support of their contention, they relied on the judgment of High Court of Madras (Madurai Bench) in the case of **S.Palanimuthu v. The Secretary to Government of Tamil Nadu, Department of Higher Education and others** in WP (MD) No.7877 of 2006, dated 10.10.2006.

8. On the other hand, Sri Ch.Jagannadha Rao, learned Standing Counsel for the 1st respondent-Osmania University submits that except granting degrees, the 1st respondent has no role in formulating the promotional Rules and Regulations by the 2nd respondent College. Since the 2nd respondent college was granted autonomous status by the University Grants Commission, it can formulate its own Rules and Regulations, as per the guidelines of the University Grants Commission, as such, the 1st respondent has no role to play except granting degrees to the students of the 2nd respondent college.

9. Sri A.Venkatesh, learned counsel for the 2nd respondent college submits that the petitioners, having knowledge of the CBCS Academic Rules, 2016-17 and having taken a copy of the said Rules at the time of admission, they cannot challenge the same in these Writ Petitions. He further submits that though the petitioners are well aware of the said Rules, they failed to complete the semesters and secure the requisite credits for promotion to the 2nd year and 3rd years of their course. He submits that

the 2nd respondent college was granted status of autonomous college by the University Grants Commission, as such, it can formulate its own Rules and Regulations including promotion of students from 1st year to the next years of B.E in various categories. He submits that the Rules framed by the 2nd respondent college are based on intelligible differentia having rational nexus with the object sought to be achieved, the same cannot be found fault with by this Court. In support of his contention, he relied on the judgments reported in the case of a) **Union of India (UOI) vs. N.S.Rathnam & Sons¹**; b) **M.Sunil Chakravarthy and others v. Principal Sreekalahasteeswara Institute of Technology²**.

10. In these cases, it is to be seen that the petitioners are students of 2nd respondent college studying in B.E undergraduate course in various trades, having taken admissions from the academic year 2016-17. By virtue of CBCS Academic Rules, 2016-17, they were denied promotions to the next classes, as they failed to secure required credits i.e., 73 credits till IV semester and that they were not promoted to the V semester (3rd year). The only grievance of petitioners is that CBCS Academic Rules 2016-17 framed by the 2nd respondent college for promotion of students to the next year classes are contrary

¹ AIR 2016 SC 1273

² 2005 (1) ALD 253

to the Rules and Regulations of the 1st respondent Osmania University.

11. Admittedly, the 2nd respondent college was conferred the status of Autonomous college by the University Grants Commission in the year 2013. As per the University Grants Commission Guidelines, the 2nd respondent College has constituted its own Governing Body, which is the highest authority amongst Academic Council, Board of Studies and Finance Committee. The Governing Body of the 2nd respondent college consists of five members from the Management, two teachers nominated by the Principal based on Seniority by rotation, one educationalist/industrialist, nominee from UGC, a State Government nominee, nominee from the 1st respondent University & Principal of College. A copy of letter dated 13.02.2014 addressed by the Deputy Secretary, University Grants Commission to the 2nd respondent college shows that the 2nd respondent was requested to accept the nomination of one Dr. Ehsan Ahmed Khan, Professor of Statistics, Jamia Hamdard, New Delhi. Likewise, the 1st respondent also addressed letter to the Principal of the 2nd respondent college nominating one Prof. P.Laxminarayana, Department of Mechanical Engineering, OU as University Nominee of the Governing Body of the 2nd respondent college. The Academic Council is responsible for

scrutinizing and approving the academic regulations, instructional and evaluation arrangement and such other matters while Board of Studies is responsible for preparing the syllabus, suggesting methodologies for innovative teaching and evaluation techniques and such other functions. The Governing Body, after approval of the Rules by the Academic Council, as per the guidelines of UGC, the impugned CBCS Rules were placed before the Governing Body, which, in turn, approved the CBCS Academic Rules, 2016-17. It is specifically stated in the counter affidavit that at the time of joining of the petitioners in the 2nd respondent college, they were provided with a copy of such Rules apart from placing the same in the website of the 2nd respondent college. The petitioners were well aware of the said Rules formulated in the year 2016-17, have not challenged the same till date. It is also stated in the counter affidavit that the petitioners have written I & II semester examinations four times till date and have failed to clear the same, as such, they cannot state that the CBCS Rules are not informed to them. That apart, even as per 2(b) of the University Grants Commission XII Plan Guidelines in respect of Scheme of Autonomous College, the Autonomous colleges are free to make use of the expertise of University departments and other institutions to frame their curricula, devise methods of teaching,

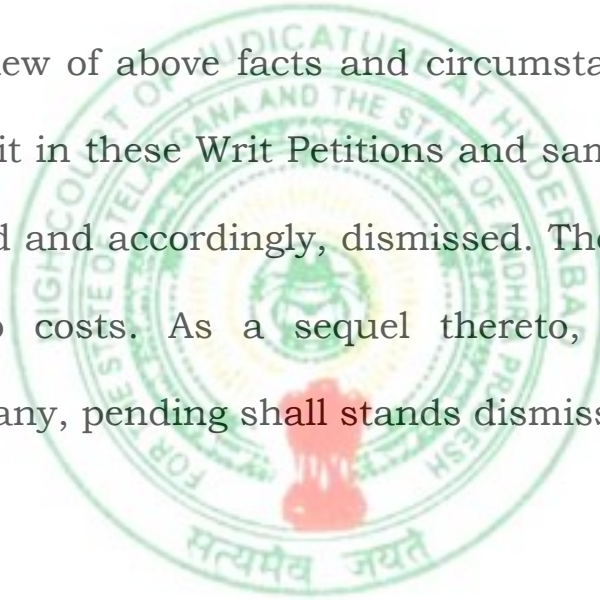
examination and evaluation. The parent university i.e., 1st respondent University herein, will accept the methodologies of teaching, examination, evaluation and the course of curriculum of its autonomous colleges. As per clause 8 of the Guidelines, the Board of Studies is the basic constituent of the academic system of an autonomous college and that its functions will include framing the syllabi for various courses, reviewing and updating syllabi from time to time, introducing new courses of study, determining details of continuous assessment, recommending panels of examiners under the semester system etc. Therefore, the CBCS Rules, framed by the 2nd respondent college as per the guidelines of UGC, which are for the benefit of the students/petitioners, cannot be found fault. In the counter affidavit, it is categorically stated that the CBCS, which enables a student to choose subjects as per his interest/choice for enabling a student to pursue his interests, as such, same does not violate any rules, regulations, provisions of any statute. As already stated supra, it is clearly stated in the counter that, at the time of admission, each student was given a copy of CBCS Academic Rules 2016-17 and they were also explained about the same and their implications in the Orientation Programme conducted by the 2nd respondent college, but

no reply affidavit is filed by the petitioners, denying the same.

12. As far as securing credits as per the CBCS Academic Rules 2016-17 concerned, for a student to be promoted from 4th semester to the 5th semester (3rd year), he or she must necessarily earn 49 credits from I and II semester alone and at least 24 credits from III and IV semester, totaling to 73 credits. Therefore, as rightly contended by the learned counsel for the 2nd respondent college, the interpretation arrived at by the learned counsel for the petitioners that the petitioners should earn either 49 credits from I and II semesters and must earn 73 credits in all semesters put together, is totally misconceived and is against CBCS Academic Rules of the 2nd respondent college. The Rules framed by the 1st respondent University would apply only to the colleges affiliated to the 1st respondent University, but not to the 2nd respondent college, which is a separate autonomous college. In the counter affidavit it is categorically stated that there is vast difference between Rules framed for the Academic Year 2018-19 with that of the impugned Rules, as the number of credits in the over all courses/subjects changed from 2016-2020 batch i.e., 188 credits to 160 credits for 2018-22 batch. Therefore, the petitioners, having taken admissions after understanding the CBCS Academic Rules 2016-17,

they cannot question the same, particularly, when they failed to secure credits as per the CBCS Rules. Though it is stated by the learned counsel for the petitioners that the CBCS Rules framed by the 2nd respondent college are violative of Article 14 of the Constitution of India, nothing is placed before this Court to come to such conclusion. Though learned counsel for the petitioner relied on the Judgment of High Court of Madras, the same is not applicable to the facts and circumstances of the case.

In view of above facts and circumstances, I do not see any merit in these Writ Petitions and same are liable to be dismissed and accordingly, dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stands dismissed.



A.RAJASHEKER REDDY,J

12-10-2018
kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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