

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.07.2019

PRONOUNCED ON : 03.07.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.16174 of 2019 and
W.M.P.Nos.15898 & 15899 of 2019

P.Saranya

Petitioner

Vs

1.The Director of Legal Studies,
Directorate of Legal Studies,
198, Purasawalkkam High Road,
Purasawakkam,
Chennai - 600 010.

2.The Registrar,
The Tamil Nadu Dr.Ambedkar Law University,
Perungudi Campus,
MGR Salai,
Near Taramani (MRTS) Railway Station,
Perungudi,
Chennai - 600 113.

3.The Controller of Examination,
The Tamil Nadu Dr.Ambedkar Law University,
Perungudi Campus,
MGR, Salai,
Near Taramani (MRTS) Railway Station,
Perungudi,
Chennai - 600 113.

4.The Principal,
Government Law College,
Marudhamalai Road (Post),
Bharathiyar University,
Coimbatore - 641 046.

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the
Constitution of India for a writ of Certiorarified Mandamus to

call for the records relating to the impugned notification published in the notice board dated Nil issued by the fourth respondent and consequently direct the respondents to permit the petitioner to continue her studies in 5 year B.A L.L.B., course by condoning the lack of attendance during her study of the 4th semester.

For petitioner :Mrs.Chitra Sampath, Senior Counsel
for Mr.S.Saravanan

For Respondents 2 and 3 :Mr.V.Vasanthakumar,
Standing Counsel

For Respondents 1 & 4 :Mr.V.Kathirvelu,
Special Government Pleader

ORDER

The case of the petitioner herein is that, she joined 5 years LLB course at Coimbatore Law College in the year 2017. Completed three semesters with high marks and entered 4th semester during the month of January 2019. Due to health issues, she was not able to attend the College regularly to secure the required attendance. However, her examination fees for the 4th semester was accepted by the College and hall ticket was also issued to her for the 4th semester examination schedule to commence on 3rd May, 2019.

2.While so, on 30/04/2019, the Principal of the College displayed a notification in the college notice board that the petitioner has to re-do the course. She was not put to prior notice about this. On enquiry in the 4th respondent office, the petitioner came to know that she has secured less than 60% of attendance and therefore, not qualified to write the examination and move to the next semester. She gave a representation to the respondents to condone the lack of attendance and permit to move to the next semester instead of re-doing the 4th semester again. The said representation received by the respondents on 22/05/2019 has not evoked any response. Hence, the writ petition, to quash the notification of the 4th respondent ordering the petitioner to re-do her 4th semester and to permit her to continue her studies by condoning her lack of attendance.

3.In response to the averments made in the petitioner's affidavit, the 4th respondent has filed counter wherein, it is stated that the petitioner has secured only 50% attendance. As

per the syndicate resolution, candidates who have secured less than 66% of attendance have to re-do the full course of one year in the subsequent academic year, irrespective of the number of days fall short of attendance. Condonation of lack of attendance can be done by the 4th respondent only if, the candidate fall short of attendance between 66% and 75%.

4.Since, the petitioner herein have only 50% of attendance which far below the minimum attendance required, her lack of attendance cannot be condoned even on payment of condonation fees.

5.In support of of the said contention of the petitioner, the learned Senior Counsel appearing for the petitioner would refer the order of a Division Bench of this Court passed in W.P.No.1275/2014 dated 18.12.2015 and Articles 1,2 and 3 of Convention of the Political Rights of Women and Articles 1,27,10 and 11 (12) of the Convention on the Elimination of Discrimination against Women (hereinafter referred to as "the CEDAW").

6.The learned Senior Counsel appearing for the petitioner would further submit that the petitioner was permitted to take up her internal examinations conducted between 1st April to 8th April 2019. She also attended the Viva-voce held on 10/04/2019. So, the number of working days has to be reckoned till 10/04/2019, if it is so reckoned, her attendance for 35 days out of 59 days will work to 60%. The respondents have reduced the required attendance from 75% to 65%, so they are estopped from contending that the petitioner has not fulfilled the requirement of the regulations to sit for the exam and continue the course.

7.The monthwise particulars pertaining to the attendance of the petitioner is as below:-

Month	Total No. of Working Days	Total No. of Days attended
January	10	04
February	21	08
March	20	15
April	19	08
Total Days	70	35

8.As far as the Division Bench judgment relied by the petitioner, this Court has interfered in the decision of the University since, it found discrimination between candidates. When identically placed students who lack attendance were permitted to continue the course after payment of condonation fees, the appellant in that case was not permitted. Hence, the Division Bench has observed as follows:-

20.In this connection, the learned counsel for the respondent pointed out that the stand of the University that in 2012-2013 with the approval of the University Syndicate as an one-time measure, lack of attendance of certain students were condoned after receiving the condonation fee is not correct as even without the approval of the University Syndicate, during 2013-2014, the University Officials have condoned the attendance of 9 students who have secured attendance far below 50% and the University cannot discriminate the writ petitioner alone."

9.The next contention of the learned counsel regarding violation of some of the Articles of the CEDAW and Declaration and Conventions of Political Rights of Women and Children, no convention say women candidates suffer from pregnancy related ailment should be permitted to pursue her course without required attendance.

10.In the counter affidavit, the 4th respondent has furnished the attendance details of the writ petitioner. The University Regulation prescribes, minimum 75% of attendance to write the examination. This year, considering the fact that several students have failed to secure the minimum attendance for various reasons, the respondent University has reduced the required minimum attendance from 75% to 65%. The petitioner herein has secured only 50% attendance.

11.The syndicate of the Dr.Ambedkar Law University has fixed minimum attendance and resolved to direct the students who have not secured the minimum attendance to re-do the semester. Based

on the said resolution, notification has been issued by the 4th respondent directing the petitioner herein to re-do her 4th semester course since, she has attendant only 50% of the class. Resolutions passed on the earlier occasions, as one time measure, cannot be a precedent forever. Permitting candidate who lack requisite attendance will primarily affect discipline and secondarily, the quality of knowledge which a student can gain by attending the classes. If students are permitted to continue their course even without minimum attendance, it will convert regular full time course into part time course or course under distance education scheme.

12.This Court has already in a different context has held that, part-time courses for Bachelor's in Law is impermissible. Accordingly, the Bar Council of India (BCI) has stopped permitting Colleges conducting part-time LLB/BL. While so, relaxing the minimum attendance norms will be permitting part-time BL course which is not otherwise permissible. Hence, the writ petition is liable to be dismissed as devoid of merits.

13.In the result, the writ petition is dismissed. No order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

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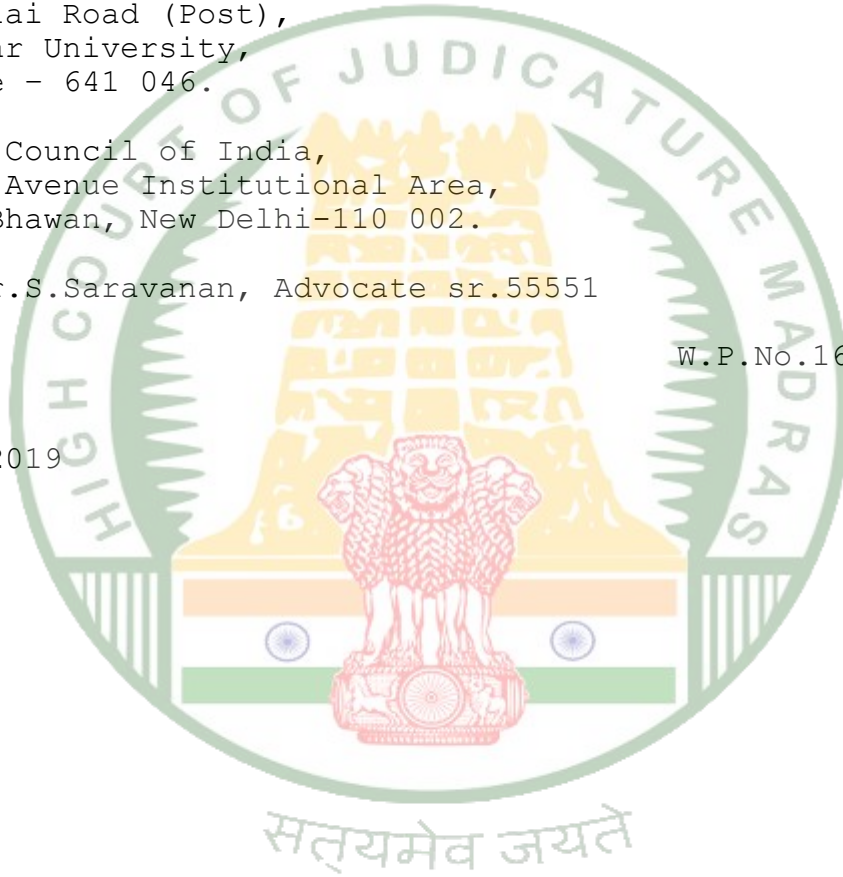
4.The Principal,
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Marudhamalai Road (Post),
Bharathiyar University,
Coimbatore - 641 046.

5.The Bar Council of India,
21, Range Avenue Institutional Area,
Near Bal Bhawan, New Delhi-110 002.

+1cc to Mr.S.Saravanan, Advocate sr.55551

W.P.No.16174 of 2019

ssd(co)
nr 24/09/2019



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