

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 24.09.2019

Pronounced On: 04.10.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition Nos.21622 & 23183 of 2019
& W.M.P.Nos.20845 & 22874 of 2019

D.Sivabalan ... Petitioner in W.P.No.21622 of 2019

T.Subramanian ... Petitioner in W.P.No.23183 of 2019

Vs

1.The Principal Secretary/
Higher Education Department,
Fort St. George,
Chennai - 60 009.

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

3.The Principal,
ARS College of Engineering,
Maraimalai Nagar,
Chengalpattu Taluk,
Kancheepuram District
Pin 603 209.

4.The Registrar,
Anna University,
Chennai - 600 025.

... Respondents in W.P.21622 of 2019

1.The Principal Secretary/
Higher Education Department,
Fort St. George,
Chennai - 60 009.

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

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3.The Principal,
ARM College of Engineering,
Maraimalai Nagar,
Chengalpattu Taluk,
Kancheepuram District
Pin 603 209.

4.The Registrar,
Anna University,
Chennai - 600 025.
2019

... Respondents in W.P.23183 of

Prayer in W.P.No.21622 of 2019:- This writ petition is filed under Article 226 of the Constitution of India for a writ of Mandamus directing the second respondent to issue statement of marks of the petitioner for his final semester - 8th semester examinations of B.E Mechanical Degree course of the petitioner bearing registration No.410515114011 completed by the petitioner in the month of April 2019 forthwith.

Prayer in W.P.No.23183 of 2019:- This writ petition is filed under Article 226 of the Constitution of India for a writ of Mandamus directing the second respondent to issue statement of marks of the petitioner for his final semester - 8th semester examinations of B.E Mechanical Degree course of the petitioner bearing registration No.410315114370 completed by the petitioner in the month of April 2019 forthwith.
W.P.No.21622 of 2019:-

For Petitioner : Mr.S.Periasamy

For 1st Respondent : Mr.S.Suresh Kumar,
Government Advocate

For 2nd Respondent : Mr.M.Vijayakumar,
Standing Counsel

For 3rd Respondent : Mr.AR.L.Sundaresan, Senior Counsel
for Mr.G.Sakthivel

For 4th respondent : Mr.L.P.Shanmugasundaram,
Standing Counsel

W.P.No.23183 of 2019:-

For Petitioner : Mr.S.Periasamy

For 1st Respondent : Mr.S.Suresh Kumar,
Government Advocate

For 2nd respondent : Mr.L.P.Shanmugasundaram,
Standing Counsel

For 3rd Respondent : Mr.AR.L.Sundaresan, Senior Counsel
for Mr.G.Sakthivel

For 4th Respondent : Mr.M.Vijayakumar, Standing Counsel

C O M M O N O R D E R

Heard the Learned Counsel for the petitioners and the Learned Counsel for the respondents.

2. Contention of the petitioner/D.Sivabalan in W.P.No.21622 of 2019

The petitioner joined ARS College of Engineering at Marimalainagar (the 3rd respondent) to pursue his studies in B.E., Mechanical Engineering in the year 2015. The 3rd respondent/College is affiliated to the Anna University (4th respondent). The examinations for the B.E. courses is conducted by the Controller of Examination, Anna University (2nd respondent). The petitioner appeared for his final semester examination in the month of April - May 2019 and awaiting for the results. While the results of other Colleges released, the result of the petitioner is held without assigning reason. Hence, the petitioner made representation to the 2nd and 4th respondent on 12.07.2019 to publish the 8th semester examination results.

3. Contention of the Petitioner/T.Subramanian in W.P.No.23183 of 19

The petitioner joined ARM College of Engineering at Marimalainagar (the 3rd respondent) to pursue his studies in B.E., Mechanical Engineering (II year) through Lateral Entry in the year 2016. The 3rd respondent/ARM College of Engineering is affiliated to the Anna University (4th respondent). The examinations for the B.E., courses is conducted by the Controller of Examination, Anna University (2nd respondent). The petitioner appeared for his final semester examination in the month of April-May 2019 and awaiting for the results. While the results of other Colleges released, the result of the petitioner is held without assigning reason. Hence, the petitioner made representation to the 2nd and 4th respondent on 12.07.2019 to publish the 8th semester examination results.

4. The facts of the case is common, the grievance of these two petitioners are one and same. The respondents are

same and defence also same. Hence, the matter was taken up together for final disposal.

5. The petitioners claim is that, they have regularly attended classes and not involved in any malpractise during their course of study or examinations. No adverse remarks about them. While so, the 2nd and 4th respondents are with holding their results and other students result, without assigning any reason. Though the College as well the petitioners gave representation to the 2nd and 4th respondents to released the results, till date, the respondents have not released the result nor informed the reason for not releasing the result. Hence, the writ petitions are filed to direct the 2nd and 4th respondents to release the 8th semester result of the petitioner. Except the College which the petitioners pursued their course all other facts are one and same in both the writ petitions.

6. When the matter came up for hearing on 14.08.2019, the Learned Counsel appearing for the Respondent/University submitted before this Court that the University received complaint regarding irregularities in the 3rd respondent College. Hence, the Vice Chancellor of the University constituted a committee to enquire. The 2nd respondent informed the 3rd respondent/college about the constitution of committee and to cooperate with the enquiry. Accordingly, on 19.07.2019, the committee inspected the College. Certain documents were taken for scrutiny. Again, on 06.08.2019 when the committee went for inspection, the College was found closed. Hence, the committee intend to visit the College on or before 26.08.2019.

7. After considering the rival submissions, this Court on that day passed the following order:-

2. The learned counsel appearing for the University submits that the enquiry regarding malpractice committed by the institute is under way. Since non-cooperation of the institute, they are not able to conduct enquiry on that day. It is submitted that when they went to the institute to conduct the spot inspection on 06.08.2019, the institute was closed and they have not able to proceed. Hence, the University has put notice to the institute that the inspection will be on 26.08.2019 and requested the institute to produce the candidates during the inspection.

3. The learned counsel for the 3rd respondent/institute would submit that it is not possible to produce all the 400 candidates on that day. However, the learned counsel appearing for the petitioner submits that he is ready to cooperate and he will be present any time as and when the University calls for an enquiry.

4. Therefore, the 3rd respondent is directed to keep the records available on 26.08.2019, when the University team inspects the College. The petitioner shall also be present. The University enquiry committee shall complete the enquiry and if they are satisfied that the petitioner is not involved in the malpractice, they may release the results to the petitioner. The respondent shall retain the certificates of the person against whom material for malpractice is available and release the results of the other candidates and file an interim report about the progress of the enquiry proceedings on 30.08.2019.

8. The 2nd respondent, on 04.09.2019 filed an affidavit stating that, the above order of the Court dated 14.08.2019 was not properly understood. The Committee made a surprise visit of the college on 21.08.2019 has filed interim report. Also undertook to commence the inspection from 05.09.2019 and conclude the same within reasonable time. On 09.09.2019, the 2nd respondent filed an interim report before this Court regarding the enquiry held on 05.09.2019 and the finding of the committee as below:-

1. Both colleges have not provided the requisite details of fee receipts, attendance particulars, assessment records of the petitioners during the 6/8 semesters of student from 2015-2016 to 2018-2019.

2. Both petitioners did not produce the fee particulars during the period of study.

3. Thiru T.Subramanian (Reg.No.410315114370) has given contradictory statements about attending classes and the name of faculty members who took the classes of his VII semester as against the documentary evidence of the college.

4. The statements of Thiru.D.Sivabalan (Reg.No.410515114011) could not be verified as the Principal of ARS College of Engineering has not produced any document in support of him.

9. This Court, after realising that the University under the guise of enquiry was with holding the results of all the students of the 3rd respondent College gave a extension of time finally to the University to complete the enquiry and release the results of the students who are no way connected with the alleged irregularities. Accordingly, the Committee has concluded its enquiry and submitted its report dated 21.09.2019 to the Vice-Chancellor for further action.

10. The Learned Counsels appearing for the petitioners in both the writ petitions (Students) submit that, they are bonafide and regular students. They participated in the enquiry whenever and wherever the University called for inquiry. They have produced all the necessary and relevant documents to prove their bonafide. The Officials of the University under the guise of enquiry intimidating and harassing them to give statements against the Management and threaten them, they will make adverse report about them, if they refuse to give letter. Hence, pray that the students cannot be victimised in the clash of the Management and the University.

11. The Learned Senior Counsel for the 3rd respondent (Management) submitted that, the College has produced all the documents required by the Committee and obtained acknowledgement for the same. The University, to justify their unreasonable and illegal act of with holding the results of the candidates, who were duly permitted to write their examination during April-May 2019, trying to make a roving enquiry and harassing the Institution with false accusation.

12. The Learned Senior Counsel for the 3rd respondent also made a very serious allegation against Committee that the letters relied by the University were obtained from the students

under threat and coercion. In spite of production of documents, the University citing the pendency of enquiry, refuse to release the results without any rhyme or reason.

13. The University alleges that mass irregularity in admitting students in Lateral Entry has occurred in the 3rd respondent Colleges and their non cooperation to the enquiry is cause for withholding the results of the students. Contrarily, the students, who are the writ petitioners herein states otherwise. The Management also attributes motive to the University for their refusal to release the results.

14. The attitude of the University in depriving the petitioners right of result of the exam and the way they deal the candidates who have taken up the examination conducted by the University disturbs the Court badly. In the affidavit, filed by the 2nd respondent, on 04.09.2019, he has stated that, at the time of surprise visit made by the Zonal Officer on 11.04.2019, they noticed prima facie evidence for the miscarriage of regulations of the University by the College authorities. If it so, they should not have allowed those students to take up their examination in April-May, 2019. Having allowed them to participate the examination, atleast the enquiry about their credibility and eligibility to pursue the course should have been done immediately.

15. From the communication of the 2nd respondent, dated 18.07.2019, this Court finds that after repeated representation from the College to release the results, the 2nd respondent has informed the Colleges that the Vice Chancellor on 16.07.2019 has approved constitution of enquiry committee and that committee has decided to visit the College and report about the alleged irregularities. Thereafter, there was no progress in the enquiry except mutual accusation of delay and abuse of power against each other by the University and the Management.

16. These two Writ Petitions were filed by the students on 23.07.2019 and 07.08.2019 respectively. Only thereafter, at the instance of this Court, the enquiry committee has done their enquiry and submitted the report on 21.09.2019. Alleging non cooperation from the Management the University has deprived the students who have taken up their examination. Having failed to take up proper action in time and having allowed the candidates to take up the examination, the results of the candidates cannot be withheld infinitely. Therefore, the 2nd respondent is directed to release forthwith the results of all the students, who have taken up their

examination during April-May 2019, except the candidates against whom there is strong evidence of irregularity. So that, the students of the 3rd respondent/College, who are bonafide and not involved in any irregularities will get their results and the erring students alone will be proceeded and face action. Action on the enquiry report against erred candidates or the College Management can be taken after affording fair and adequate opportunity to the persons concern.

17. With the above direction, the Writ Petitions are disposed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Principal Secretary/
Higher Education Department,
Fort St. George,
Chennai - 60 009.
2. The Controller of Examinations,
Anna University - Chennai,
Chennai - 600 025.
3. The Registrar,
Anna University,
Chennai - 600 025.

+2cc to Mr.R.Thamaraiselvan, Advocate SR.85251,85252

+1cc to Mr.L.P.Shanmuga Sundaram, Advocate SR.85768

+1cc to Mr.M.Vijayakumar Advocate, SR.85574

Pre delivery Common Order made in
W.P.Nos.21622 & 23183 of 2019

SR(CO)
CB(15/10/2019)