

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.11.2019

PRONOUNCED ON : 21.11.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Contempt Petition No.1857 of 2019

Sivabalan ... Petitioner
Vs

1.Dr.M.Venkatesan
The Controller of Examinations,
Anna University,
Chennai - 600 025.

2.Mr.K.Karunamoorthy,
The Registrar,
Anna University,
Chennai - 600 025 ... Respondents

Prayer :- Contempt Petition is filed under Section 11 of the Contempt of Courts Act to punish the respondents for their willful disobedience of the order dated 04.10.2019 made in W.P.No.21622 of 2019 passed by this Court.

For Petitioner : Mr.K.Balu, for
Mr.S.Sasikumar

For Respondents : Mr.A.Kumar,
Additional Advocate General
for Mr.M.Vijayakumar

ORDER

The petitioner is a student of ARS College of Engineering, Maraimalai Nagar, Chennai. He has filed a writ petition in W.P.No.21622 of 2019 aggrieved by non publishing of his 8th

semester result by the Anna University. In that writ petition, he contended that, he appeared for the final semester examination in the month of April - May 2019 and awaiting for the results. While the results of other college students released, the result of the petitioner is held without assigning reason. Hence, the petitioner gave a representation on 12.07.2019 to the respondents to publish his results. But there was no response from the Anna University. Hence, he sought for issuance of writ of mandamus to direct the Controller of Examinations, Registrar of Anna University, to publish his result.

2.The respondents herein have filed their counter affidavit and stated the reasons for not releasing the result of the petitioner. After considering the rival submissions and the materials placed before this Court, this Court passed a common order in the writ petition filed the petitioner herein and one S.Subramani who is the student of ARM College of Engineering, Maraimalainagar, Chennai in W.P.Nos.21622 & 23183 of 2019 respectively on 04.10.2019.

3.In the said order, dated 04.10.2019, this Court has concluded as below:-

"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 with held 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."

4.Now, the present contempt petition is filed by Sivabalan alleging that this Court has specifically directed the Anna University to publish the results of all *bona fide* students except the candidates against whom there is strong evidence of irregularities. While so, in spite of the said specific direction of this Court, the respondent University has not come forward to comply and implement the order of this Court dated 04.10.2019, which amounts to total violation of the order and willful disobedience causing gross injustice to the petitioner.

5.According to the petitioner, the University has withheld the result of around 200 students as below:-

Sl.No .	Academic Year	No. of results withheld
1	2013-2017/passed out	05
2	2014-2018/passed out	23
3	2015-2019/passed out	84
4	2016-2020/current	88
	Total	200

Hence, pray for punishing the respondents for the willful disobedience of the order dated 04.10.2019 made in W.P.No.21622 of 2019.

6.The respondents have filed counter affidavit wherein, it is stated that pursuant to the direction of this Court dated 04.10.2019, the results of all genuine students of ARS Engineering College have been published and the students were permitted to take up the arrears examination. As against the petitioner, he is not genuine student and as such, his result has been withheld. There is no deviation or disobedience of the order of the High Court.

7.The respondent University decided to conduct enquiry, in respect of the students to verify the bona fideness of the students to pursue their course in ARS Engineering College. The respondent University is duty bound to weed out non genuine students from the list of college. In the course of enquiry, the College, on its own has revised the list of students in the Roll and deleted some of the false registration from the portal. The veracity of the remaining students were verified by the University and in the said course, the petitioner is found to be an in genuine candidate.

8. According to the respondents, the enquiry was conducted during the month of September 2019 and the enquiry committee has observed as below:-

*"The students and staff of ARS College of Engineering were called on 16.09.2019 and enquired them. **Thiru D.Sivabalan did not appear for the enquiry in spite of called him to attend the enquiry by sending the letter to his home address as well as to the college.** All the students and staff have given evasive and improper replies during the enquiry. The college authorities did not produce the requisite records and documents for the said enquiry.*

During the enquiry, there was a total non cooperation from the authorities of ARS College of Engineering. The college neither provided the details pertaining to the attendance of all the branches nor provided the details of scholarships received by the students from the government for the batch admitted during 2015-2019. During the enquiry, the members of the committee had shown the name of a student Mr.R.Tamizhvanan (Reg.No.410515103380) of ARS College of Engineering to the Principal Dr.Palanivel pointing to him that the name of the student did not find place in the attendance registers maintained by the faculty members

of the college belonging to B.E Civil Engineering and enquired him further that how then the particulars of Mr.R.Tamizhvanan were uploaded in the University Web-Portal by the college authorities with 100 percent attendance and awarding almost 100% marks in most of the subjects. The Principal of the college did not give any reply in this regard. It shows that a student without attending any classes during the period of his studies can appear upto 8th semesters and complete his studies. This sort of attitude of the college would jeopardize of the educational system.

In the absence of the requisite documents either by him in person or any details from the ARS College of Engineering, the genuineness of study of Mr.D.Sivabalan in the college cannot be ascertained by the committee and hence the declaration of results for Thiru D.Sivabalan would be withheld. The committee recommends that the ARS Engineering College need to produce all the necessary documents, fee and scholarship details of all the students from the first semester to eight semester of 2015 batch of students to ensure correctness of the students enrollment, only then the results for all the students of ARS College of Engineering would be taken up."

9.After the order of this Court passed in W.P.No.21622 of 2019, dated 04.10.2019, further enquiry on 13.11.2019 was conducted and the enquiry committee has submitted its report about the petitioner herein as below:-

*"*Tution fee receipts for the four years of study from 2015-16 to 2018-19 were not produced either by Thiru.D.Sivabalan or by the college authorities to ensure that he was a bonafide students of ARS college of Engineering.*

**The student Thiru D.Sivabalan could not provide details regarding the subjects studied by him including time table and marks obtained in the three internal assessments during his eighth semester of study between January 2019 to April 2019.*

**The authorities of ARS College of Engineering produced only two attendance registers of Final semester only as against 50 attendance registers for the four years of study. The two attendance registers of his class made available to the committee also appears to be fabricated. A perusal of the attendance register provided for the subjects ME6016 Advanced IC Engines and MG6863 Engineering Mechanics appears to be identical with respect to the marking of attendance and assessment marks.*

**The deposition of Thiru.D.Sivabalan made the committee to draw conclusion that he was not attending the class regularly.*

**The college has not provided the details sought from them several times in writing with regard to the scholarships received from the Government of Tamil Nadu through DOTE for batches 2015-2019 for all the four academic years 2015-2016, 2016-2017, 2017-2018 and 2018-2019. In the light of the above facts and non-cooperation from the college with a willful intension of hiding the names of the recipients of various Government Scholarships; the committee would be constrained to consider Thiru.D.Sivabalan as genuine until receipt and verification of said documents."*

10.In response to the counter affidavit and the submissions of the contemnors/respondents, a reply affidavit has been filed by the petitioner wherein, he denied the enquiry alleged to have been conducted on 06.09.2019 and alleges that he was treated very harshly by the enquiry committee when he appeared before them on 06.09.2019. After filing contempt petition, he was again enquired by the enquiry committee on 13.11.2019. At the time of enquiry, he submitted all the relevant documents such as, community certificate; educational certificate; bona fide

certificate and examination hall ticket for 8th semester etc., for verification. The respondents forced him to withdraw the contempt petition as a pre-condition to issue hall ticket for final semester and threatened that unless the case is withdrawn his future will be ruined.

11.In the typed set of papers, the petitioner has furnished his B.E semester mark sheets; examination fees receipts; hall tickets and details of scholarship for the year 2015-2016 issued by the University. As far as the enquiry committee is concerned, they say that the petitioner is unable to produce documents sufficient to infer that he is the regular student of ARS college. The attendance register and the students who have pursued the course are not produced by the College and the statement of students who have pursued the course along with the petitioner are not supporting of the petitioner's contention. Hence, the respondent University has held that the petitioner genuineness of being student of ARS College of Engineering is questionable.

12.Contrarily, the learned counsel for the petitioner referring the mark sheets; examination fee receipts and scholarship for SC students would submit that the petitioner had been a regular student of ARS Engineering College and he has taken up his examinations till November 2018 and cleared most of the subjects.

13.The respondent College has furnished the attendance

register to the enquiry committee which has been disbelieved by them for the reasons best known. The petitioner future should not be affected on surmises.

14.From the materials placed by the petitioner and the respondents, this Court found that there are some materials for the respondents to doubt about the genuineness of the petitioner but, the said doubt is not sufficient to prevent the petitioner from pursuing the course for the simple reason that the petitioner's mark sheets indicate that, he had been appearing for the examinations conducted by the respondent University regularly and in few subjects, he has cleared and in few subjects, he did not clear and he was asked to re-appear. Ever since from the joining of the ARS Engineering College he is regularly appearing for examinations. If he is the person being admitted for the name sake, there is no necessity for him (petitioner) to appear for the examination regularly and cleared substantially.

15.Unless there is unimpeachable material to show that the petitioner is not a bona fide student, the benefit of doubt should be extended to the petitioner. This Court is of the opinion that, the respondent University with an aim to streamline the irregularities in the Management of Private Engineering Colleges has denied the student/petitioner to continue the course and had withheld the permission for the petitioner to take up the examination. This Court is of the

further view that the respondent University might have shown better discretion in the matter of the petitioner. The credence of the petitioner though doubtful but not strong enough to deprive permission to continue the course and take up the examination. Having said so, this Court finds that the decision of the respondents not to permit the petitioner is not a willful disobedience the order of this Court but it is an error of assessment by the enquiry committee while deciding the credential of the petitioner. Therefore, the Contempt Petition is closed and the respondents are directed to allow the petitioner to continue his course and take up the ensuing examination.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

jbm

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

Nrk/16/12/2019

To

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

2.The Registrar,
Anna University,
Chennai 25.