

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No. 2741 of 2018
&
C.M.P.No.22593 of 2018

A.Priya ... Appellant/Petitioner

-vs-

1. State of Tamil Nadu,
Rep by the Registrar,
University of Madras,
Centenary Building,
Chepauk, Chennai - 600 005.
 2. The Controller of Examinations,
University of Madras,
Centenary Building, Chepauk,
Chennai - 600 005.
 3. The Principal,
S.R.M.Arts and Science College,
Kattankulathur,
Chennai - 603 203.
 4. The Principal,
S.I.V.E.T College,
Velacherry Main Road,
Gowrivakkam, Tambaram,
Chennai - 600 073.
- ... Respondents

Writ Appeals filed under Clause 15 of Letters Patent against the order of this Court in W.P.No.22353 of 2018 dated 30.10.2018.

Prayer in W.P.No.22353 of 2018:-

Writ Petition praying to issue a Writ of Mandamus, directing the respondents 1 & 2 to declared the petitioner as pass for the B.C.A. degree course during April 2016 and thereby issue provisional and degree certificates and also direct the respondents 1 to 3 to permit the petitioner to complete the M.C.A. degree course for the academic year 2018-2019 and thereby

to issue M.C.A. degree course subject to pass in the papers prescribed for the course.

For appellant : Mr.R.Malaichamy

For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader
(for R.1 & R.2)
Mr.A.Thayaparan (for R.3)
No appearance for R.4

JUDGMENT

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

This appeal has been filed by the writ petitioner challenging the order in W.P.No.22353 of 2018 dated 30.10.2018.

2. The appellant filed the said writ petition praying for a direction upon the respondent Nos.1 & 2/University of Madras to declare that the appellant passed the B.C.A. Degree Course during April, 2016 and issue provisional and degree certificates and also direct the respondent Nos.1 to 3 namely University of Madras and S.R.M. Arts and Science College, Kattankulathur to permit the appellant to complete the M.C.A. Degree Course for the academic year 2018-19 and issue M.C.A. Degree course subject to the appellant passing in all the papers prescribed for the course.

3. The learned Single Bench dismissed the writ petition on the ground that the admission of the appellant to the M.C.A. Course in the third respondent college itself is illegal, since the appellant has received the provisional certificate having passed the Bachelor of Computer Applications (B.C.A. Course) only in April 2018.

4. We have heard Mr.R.Malaichamy, learned counsel for the appellants and Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader appearing for R.1 & R.2 and Mr.A.Thayaparan, learned counsel appearing for R.3.

5. We find that the appellant is not to be blamed for the mishap which has occurred. The following facts and reasons would substantiate our conclusion. The appellant had completed her SSLC during March, 2009. Thereafter, the appellant joined three year Diploma in Computer Engineering Course in IRT Polytechnic College, Chromepet, Chennai. The appellant completed the said course and provisional certificate was issued to the said effect that the appellant has passed the final examination in First Class in Diploma in Computer Engineering in April, 2014. The

University of Madras issued Provisional Eligibility Certificate stating that she is eligible for admission in the second year Lateral Entry in B.C.A. Course in the respondent/University for the academic session 2014-15 subject to the conditions found in the Annexure. Based on the said Provisional Eligibility Certificate, the appellant joined the fourth respondent/ College in the second year for the B.C.A. Degree Course. The appellant completed the course in May 2016 and a Transfer Certificate was issued by the fourth respondent/College on 23.06.2016.

6. Thereafter, the appellant joined the third respondent/ College for Post Graduate Studies in Computer Applications namely MCA Course. While she was pursuing her MCA Course, the College insisted upon producing provisional certificate from the fourth respondent/College. Therefore, the appellant approached the fourth respondent/College who in-turn addressed the Controller of Examination, University of Madras by communication dated 13.02.2017 stating that she has successfully completed the course and she has not received her Provisional Certificate and the marks statement of the appellant was enclosed for doing the needful.

7. It appears that thereafter the appellant approached the University of Madras and she was informed that she has not passed the Tamil Papers in the Degree Course namely Tamil-I and Tamil-II and therefore unless she passes the same, the Provisional Certificate for completing B.C.A. Degree Course will not be given by the University of Madras. It appears that the appellant was not advised properly and she appeared for those two Tamil Papers and was successful and Grade Card was issued to the said effect in November, 2017 declaring that the appellant have passed both the Tamil Papers. Based upon the Grade Card, Provisional Certificate dated 11.04.2018 was issued by the University of Madras certifying that the appellant has qualified Bachelor of Computer Applications Course as she has passed the Degree examination held in November, 2017.

8. Unfortunately, a very important point was missed at that juncture. Because the appellant had passed the BCA Course in 2016 itself and she was admitted to the MCA Course in third respondent/College for the academic year 2017-18, the pass of two Tamil Papers was alone left, the question is whether this can be put against the appellant to state that her admission to the MCA Course in third respondent/College was illegal.

9. We are of the opinion that there can be no illegality attributed to such admission. This is because the appellant joined the B.C.A. Degree Course as a lateral entry candidate in the second year. The syllabus for the B.C.A. Degree Course has been placed before us and we find that the course is a 3 year

course consisting of 6 Semesters i.e., 2 Semesters every year. Admittedly, the second and third years do not contain the subject Tamil, which are admittedly Foundation Courses. These Foundation Courses are found in the first and second Semesters in the first year. Therefore, if the appellant was required to pass the same as per the instructions of the University or the Government, she should have been imparted the Foundation Course as separate subject in the second year i.e., in the 3rd and 4th Semesters. However, this was not done and we are not here to examine as to whose mistake it was and obviously it was not the mistake of the appellant.

10. Therefore, we are of the considered view that this is one of the rarest of the rare cases where the appellant should be granted some relief. But we are also justified in taking such a stand taking note of the fact that the appellant is a child born to totally blind parents belonging to a Scheduled Tribe Community. The marks scored by the appellant clearly show that she is a very bright candidate.

11. Therefore, we are of the considered view that the University should consider the appellant's case as a unique and rarest of the rare cases for grant of a special order. Further in the MCA Course, from the Grade Card issued to the appellant, we find that she has scored outstanding (more than 80%) in several subjects.

12. Thus, for the above reasons, the writ appeal is allowed and the order passed by the learned Single Bench is set aside and accordingly, we direct that the appellant shall be treated as a candidate who has completed B.C.A. Degree in April, 2016 and Provisional Degree Certificate shall be issued to the said effect by the respondent Nos. 1, 2 and 4. Consequently, the appellant is permitted to pursue her MCA Course in the third respondent/college and she could be permitted to attend the examination for the remaining papers for which she was prevented from attending on account of the dismissal of the writ petition. The first limb of the direction be complied with by the University of Madras within a period of three weeks from the date of receipt of copy of this Order. The third respondent/College is directed to permit the appellant to pursue the course in terms of the above directions.

13. The learned Standing Counsel appearing for the respondent/University has an apprehension in his mind that this judgment will be treated as a precedent. There need not be any apprehension by the University of Madras as we have made it clear as this is one of the rarest of rare cases which calls for an unique order. It is needless to state that this order has been passed taking note of the peculiar circumstances and not to

be treated as precedent.

14. In the result, the Writ Appeal is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrm

To

1. The the Registrar, State of Tamil Nadu,
University of Madras, Centenary Building,
Chepauk, Chennai - 600 005.

2. The Controller of Examinations,
University of Madras,
Centenary Building, Chepauk,
Chennai - 600 005.

+1 cc to Mr.R.Malaichamy, Advocate Sr.No.28915

+1 cc to Mr.L.P.Shanmugasundaram, Advocate Sr.No.29419

+1 cc to Mr.A.Thayaparan, Advocate Sr.No.29492

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GJ-II(CO)
CSL/03.04.2019

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