

HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO.28623 OF 2019

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for issuing a writ of mandamus to declare the circular dated 14.12.2019 of the 1st respondent college, whereby the petitioner is detained and not permitted to sit for the first semester exam of the first year B.Tech course on the ground of shortage of attendance as highly arbitrary, unjust, unreasonable and violation of principles of natural justice.

Heard Sri Tulsi Raj Gokul, learned counsel for the petitioner, Sri M. Srikanth, learned Counsel representing 1st respondent college and Sri Dharmesh Jaiswal, learned counsel appearing for Sri V. Ramchander Goud, learned Standing Counsel for the 2nd respondent University.

The case of the petitioner as pleaded is that, the petitioner having secured admission in 1st respondent college to pursue B.Tech course during the year 2019-20, could not attend the class due to medical reasons resulting in shortfall of attendance below the percentage prescribed by the 2nd respondent university for allowing a student to take exam. Admittedly, the petitioner is not having the required percentage of attendance viz., 75% for being permitted to take first year semester examination of the B.Tech course. The learned counsel for the petitioner submits that the attendance of the petitioner is 50.91%, however, the case of the

petitioner should be considered as exceptional case, since the petitioner is suffering with epilepsy and also had met with an accident during the period of study of first semester course. Learned Counsel for the petitioner submits that having regard to the exceptional circumstances which the petitioner is faced with a lenient / sympathetic view may be taken and by permitting the petitioner to write the examination by imposing condition prescribing higher percentage of attendance in the subsequent semesters. In support thereof places reliance on the judgment of this Court in **P. Raghu Vamshi v. Vice-Chancellor, JNTU**¹.

Learned Counsel for the 1st respondent college submits by drawing attention of this Court to the Academic Regulations for B.Tech course issued by the 2nd respondent University and in particular to Regulation 6.2 and 6.3 submits that shortage of attendance aggregate up to 10% in each semester may be granted by the college Academic Committee which would permit the committee to consider, if the attendance is upto 65%. Since the petitioner is having attendance of only 50.91%, even by granting concession of 10%, the petitioner would not be eligible for being permitted to take the examination. Learned Counsel also submits that there is no power to condone the shortage of attendance below 65% as per Regulation 6.3 of the University. Since, the petitioner is having less than 65% of attendance even by granting 10% concession also the petitioner would not meet the requirement of having prescribed percentage of attendance for

¹ 2006 (1) ALD 294

being permitted to write the examination and it is for the said reason, the representation of the petitioner dated 21.12.2019 has not been considered.

The learned counsel for the respondent places reliance on the Division Bench judgment of this Court in the case of **B. Yugandhar v. Principal, Kuppam Engineering College, Kuppam, Chittoor District**².

Sri Dharmesh Jaiswal, learned Counsel representing on behalf of the 2nd respondent University supports the said stand of the 1st respondent college and submits that the plea of sympathy was unequivocally rejected by the Hon'ble Supreme Court in **Ashok Kumar Thakur v. University of Himachal Pradesh**³ which has been followed by this Court in the case of **B. Yugandhar** (2 supra). The learned counsel would also further submit that this court in Writ Petition Nos. 39315, 34694 and 16575 of 2017 had categorically held that no direction can be issued compelling the authority to do something which is beyond its legal competence, thereby violating the mandate of Academic Regulations.

Having regard to the settled position of law, though this Court has sympathies for the petitioner, but cannot issue any direction by granting the relief to the petitioner in violation of the Academic Regulations.

In view of the above, the Writ Petition is without merit and is, accordingly, dismissed. No order as to costs.

² 2008 (2) ALT 529 (D.B)

³ (1973) 2 SCC 298

As a sequel thereto, the miscellaneous petitions pending, if any, shall stand closed.

T. VINOD KUMAR, J

Date: 27.12.2019.

MRKR

