

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 28.07.2020

Pronouncing orders on : 03.08.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.35626 of 2019
and W.M.P.Nos.36523 & 36525 of 2019

R.Shakthi Priya

...Petitioner

vs.

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

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

3. The Principal,
Meenakshi College of Engineering,
KK Nagar,
Chennai - 600 078.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Impugned Order in Lr.No.40787/C10/2019 dated 24.09.2019 and quash the same and further direct the Respondents to allow the petitioner to register and move to the 4th semester in B.Arch course in the 3rd respondent institution.

For Petitioner : Mr.L.Chandra Kumar for
M/s.Ami V.Kataria

For Respondents : Mr.M.Vijayakumar
Standing Counsel for R1 & R2

O R D E R

This writ petition has been filed challenging the impugned order passed by the 2nd respondent dated 24.09.2019, wherein, the request made by the petitioner to permit her to move into the 4th semester was rejected by the 2nd respondent.

2.The petitioner joined the 3rd respondent College to undergo Bachelor of Architecture (B.Arch) which is a 5 year course divided into ten semesters. When the petitioner was pursuing her 2nd semester, she failed in a paper, namely, Architectural Design - I and therefore, was not allowed to move to the 4th semester, even though she completed her 3rd semester. The further case of the petitioner is that, by now, she should have moved into the 5th semester and since she did not pursue her 4th semester, she was not allowed to move to the 5th semester. The request made by the petitioner was also rejected by the 2nd respondent on the ground that the Anna University Regulations, 2017 (hereinafter referred to as "the Regulations") do not permit promotion of a student to the 4th semester without completing the paper in Architectural Design - I, pertaining to the 2nd semester, with a passing grade. Aggrieved by the same, the present writ petition has been filed before this Court.

3.Mr.L.Chandra Kumar, learned counsel appearing on behalf of the petitioner submitted that Clause 11 of the Regulations permit a candidate to move into the 5th semester provided the student has no arrears in the 1st Semester. The learned counsel submitted that the petitioner does not have any arrears in the 1st semester and therefore, she is eligible to move to the 5th semester. The learned counsel further submitted that there must be a harmonious reading of Clause 11 and Clause 15 of the Regulations and the conditions stipulated in Clause 15 of the Regulations runs contrary to Clause 11 of the same.

4.The learned counsel for the petitioner further submitted that the Regulations have been drafted in a very ambiguous manner and that it virtually stops a candidate from moving into the next semester even without considering the fact that a candidate can always be allowed to write the arrears examinations without making the candidate undergo the course once again with the junior and thereby, the petitioner will have a backlog and students who have studied with the petitioner will complete and get placements even before the petitioner completes her course. Therefore, the learned counsel submitted that the impugned order passed by the 2nd respondent requires interference and the petitioner must be permitted to move to the 4th semester in the 3rd respondent institution.

5.The 1st and 2nd respondents have filed their counter affidavit in the writ petition. The relevant portions of the counter affidavit is extracted hereunder:

5. It is submitted that clause 15.1(iii) read with clause 11.2.3 clearly explain the position.

6. It is submitted that the Choice Based Credit System has been introduced by the University on the direction of the UGC to uplift the standard of the Education on par with international level. This system has reduced the burden of the student in education and give them an opportunity to choose their core, elective or minor or soft skill courses and they can learn at their own pace and the entire assessment is graded base on a credit system. The basic idea is to look into the needs of the students to as to keep up-to-date with development of higher education in India and abroad. CBCS aims to define the curriculum keeping pace with the liberalization and globalization in education. CBCS allows students an easy mode of mobility to various educational institutions spread across the world along with the facility of transfer of credits earned by students. The Regulations have been introduced by the University after having a detailed deliberations with all senior academicians and experts in the field. Hence no change can be made in the Regulations for the sake and convenience of the petitioner student. She should follow the Regulations in toto till she completes her programme. Accordingly she must redo the arrear course on Architecture Design - I between December 2019 and April 2020 to move to the fourth semester. Further the petitioner student cannot register more than 36 credits per semester which includes arrear courses, if any, in theory courses. It is the responsibility of the student to complete the programme as per the Regulations 2017 under which she is governed.

7. It is submitted that it is expected that a student must follow the clauses 15.0 and 11.2 of Regulations 2017 in clearing the studio courses.

8. It is submitted that it is the responsibility of the student to complete the programme as per the Regulations.

9. It is submitted that the Regulations of 2017 is common for all students who joined in the programme and there is no discrimination followed in of the petitioner student and her rights

and privileges have not been deprived on any account.

10.It is submitted that it is obligatory to the student to go with the Regulations and no relaxation in the Regulations can be done in favour of the petitioner.

11.It is submitted that in contents contained in clause 5.3. of the Regulations do not contrary with the conditions in the clause 15.0 of the Regulations.

6.Mr.Vijayakumar, learned standing counsel appearing on behalf of the respondents, apart from reiterating the stand taken by the respondents in the counter affidavit, submitted that the petitioner cannot expect a separate treatment and all the students are equally treated as per the Regulations. The learned counsel further submitted that the petitioner did not pass the Studio Course and Regulation 11.2.3 must be read with Regulation 15.1(iii). If these Clauses are read together, it would make it clear that a student will not be permitted to move to the 4th semester, unless he/she secures a passing grade in Architectural Design - I in the 2nd semester. The learned counsel therefore submitted that the impugned order passed by the 2nd respondent is in line with the Regulations and there is no ground to interfere with the same.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.It is an admitted fact that Architectural Design - I is a Studio Course. In common parlance, it could be understood to be a practical/clinical paper. Studio Courses are dealt with under Clause 11.2 of the Regulations, 2017. For proper understanding of the same, the Regulation is extracted hereunder:

11.2. Studio Courses

11.2.1 A candidate, who secures not less than 50% of total marks prescribed for the courses with a minimum of 50% of the marks Viva Voce Examination in Studio courses, shall be declared to have passed in the Examination and acquired the relevant number of credits.

11.2.2 If a student fails to secure a pass in a studio course, the student shall resubmit an improved Portfolio for a supplementary viva voce examination conducted by the COE within 30 days of publishing the result, with the same set of Examiners. The internal mark shall be valid for the supplementary attempt.

11.2.3 In case, a student fails to secure a pass in the supplementary viva-voce examination of a studio course, the student shall repeat the course, only along with the regular students when the course is offered next, fulfill attendance requirements, secure fresh internal assessment, submit the portfolio and appear for the End semester Viv-Voce examination. In the case of Basic Design and Architectural Design, the student shall not be permitted to proceed to the higher semester as given in Clause 15.0.

9. The case of the petitioner falls under Regulation 11.2.3. It clearly provides that, where a student fails to secure a passing grade in the supplementary viva-voce examination of a Studio Course, the student should repeat the course along with regular students, when the course is offered next. It further provides that in the case of Architectural Design, the student will not be permitted to proceed to the higher semester as given in Clause 15.

10. In view of the above, the petitioner has to redo the course on Architectural Design - I, where she has an arrear and complete the same with a passing grade in order to move to the 4th semester. The Regulations have not been put to challenge and therefore, the impugned order of the 2nd respondent which is in line with the Regulations cannot be questioned.

11. Even a close scrutiny of Clause 15.1 shows that a passing grade is required in Architectural Design - I in semester 2 for a candidate to be eligible to move to the 4th semester.

12. The respondent University will have to treat all the students alike and therefore, the petitioner cannot be given a different treatment de-hors the Anna University Regulations, 2017.

13. The Hon'ble Supreme Court of India in All India Council for Technical Education vs. Surinder Kumar Dhawan and Others reported in 2009 11 SCC 726 has categorically held that, Courts should not substitute its opinion to the

decisions taken by the professional bodies and more particularly when it involves technical education. The relevant portions in the judgment are extracted hereunder:

16. The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realizing the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education.

17. The role of statutory expert bodies on education and role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, courts will step in. In Dr. J.P.Kulshreshtha v. Chancellor, Allahabad University [1980 (3) SCC 418] this Court observed :

"11. ... Judges must not rush in where even educationists fear to tread..."

17. ... While there is no absolute bar, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies."

14. In view of the above discussion, this Court does not find any ground to interfere with the impugned order passed by the 2nd respondent and accordingly this writ petition is dismissed. Consequently, the connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar (CS-III)

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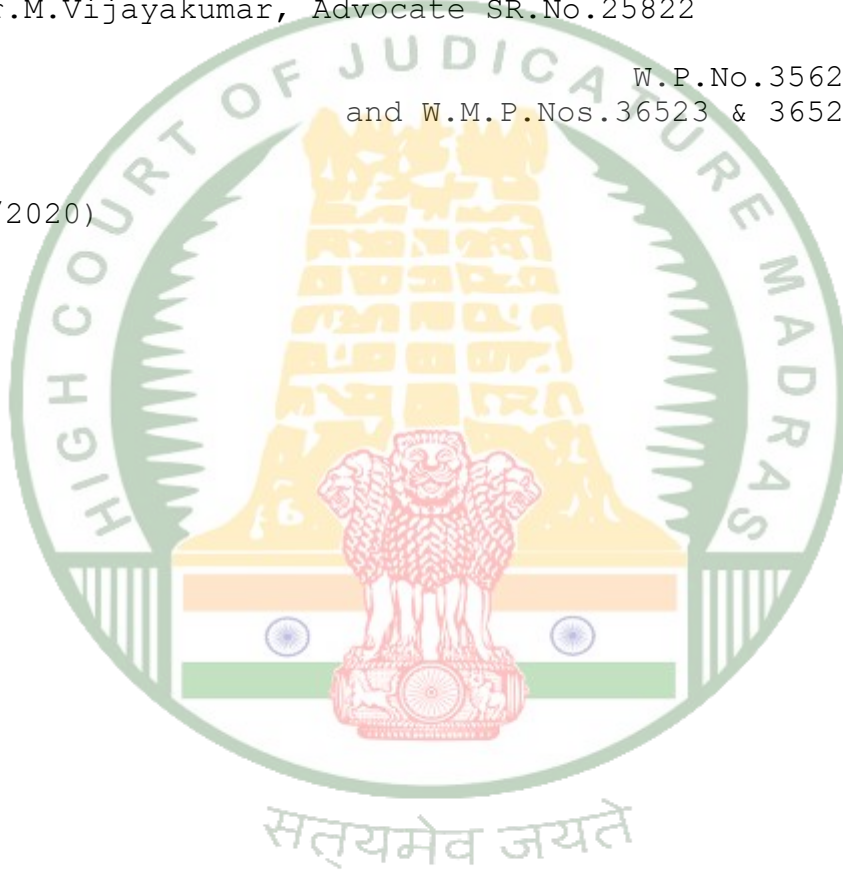
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+1cc to Mr.M.Vijayakumar, Advocate SR.No.25822

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SVI (CO)
GMY (20/08/2020)



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