

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 35719 of 2019

and

W.M.P. Nos. 36637 and 36638 of 2019

P. Ishwariya

... Petitioner

-vs-

1. The Chairman,
University Grants Commission,
Bahadurshah Zaffar Marg,
I.T.O. Metro Gate No. 3,
New Delhi - 110 002.
 2. The Registrar,
Tamil Nadu Dr. Ambedkar Law University,
No. 5, Dr. D.G.S. Dinakaran Salai,
Poompozhi, Raja Annamalaipuram,
Chennai - 600 028.
 3. The Registrar,
SRM Institute of Science and Technology,
Kattankulathur - 603 203,
Kancheepuram District.
 4. The Controller of Examinations,
SRM Institute of Science and Technology,
Kattankulathur - 603 203,
Kancheepuram District.
 5. The Head of Department i/c,
Faculty of Law,
SRM Institute of Science and Technology,
Kattankulathur - 603 203, Kancheepuram District.
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order letter dated 31.10.2019 on the file of the Third Respondent and quash the same and for a consequential direction directing the Third Respondent to permit the Petitioner to continue her 5th

Semester in B.A., LL.B., (Hons) III Year Course which will be held during November/December 2019.

For Petitioner : Mr. A. Damodaran

For Respondents : Ms. V. Sudha,
Standing Counsel (for R1)

Mr. V.M.G. Ramakannan (for R2)

M/s. B. Saraswathi (for R3)

No appearance (for R4 and R5)

O R D E R

Heard Mr. A. Damodaran, Learned Counsel for the Petitioner, Ms. V. Sudha, Learned Standing Counsel for the First Respondent, Mr. V.M.G. Ramakannan, Learned Counsel for the Second Respondent and Ms. B. Saraswathi, Learned Counsel for the Third Respondent and perused the materials available on record, apart from the pleadings of the parties.

2. The Petitioner is studying in III Year B.A., L.L.B., (Hons) Course in the faculty of law of the Third Respondent during the year 2019-2020 in which her cumulative attendance is 57.14% till the end semester. As she did not have required 70% attendance, she was not permitted to write the university examination during November / December 2019 and she was debarred and instructed to redo the course during the next academic year 2020-2021. The aforesaid decision was communicated to her parent, viz., C. Palaniappan, by letter dated 31.10.2019. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the aforesaid decision of the Third Respondent.

3. In the affidavit filed in support of the Writ Petition, the explanation of the Petitioner for the shortage attendance is that she was suffering from demyelinating disease for which she was diagnosed with bilateral sacroiliitis (subchondral marrow edema) and was under hospitalisation for the period from 26.06.2019 to 17.07.2019 and in those unavoidable circumstances, she could not attend the college regularly during the academic year 2019-2020, though she had more than 75% during the earlier two years of the course of study. It is contended by the Learned Counsel appearing for the Petitioner that having regard to the aforesaid fact situation, the Third Respondent ought to condone the shortage in attendance and permit the Petitioner to take the examination.

4. The Third Respondent has filed Counter Affidavit explaining that in terms of Rule 12 of Part IV, Rules of Legal Education framed by the Bar Council of India, the student would have to attend minimum of 70% of the classes. It is further stated that the power to reduce attendance is restricted in deserving cases for further 10% meaning thereby that the students should have atleast 60% attendance for taking the examination and that the Petitioner, in any event, is ineligible for the benefit of condonation of attendance even if that power is exercised to the maximum permissible extent.

5. Before proceeding further, it would be useful to refer the relevant rules referred by the Third Respondent and the same are extracted below :-

"Rule 12 of Part IV,, Bar Rules of Legal Education
:-

No Student of any of the degree program shall be allowed to take the end semester test in a subject if the student concerned has not attended minimum of 70% of the classes held in the subject concerned as also the Moot court rooms, Exercises, Tutorials and Practical Training conducted in the subject taken together.

Provided that if a student for any exceptional reasons fail to attend 70% of the classes held in any subject, the Dean of the University or the Principal of the Centre of Legal Education, as the case may be, may allow the student to take the test if the student concerned attended at least 65% of the classes held in the subject concerned and attended 70% of classes in all subject taken together. The similar power shall rest with the Vice Chancellor or Director of a National Law University, or his authorised representative in the absence of the Dean of Law.

Provided further that a list of such students allowed to take the test with reasons recorded the forwarded to the Bar Council of India.

Under Graduate Programmes Regulations 2017 of SRM University for students admitted from the academic year 2017-2018 onwards, Five Year Integrated Law Degree Programme,

Rule 11.3 A student must maintain an attendance record of at least 70% in all courses added together. Without the minimum attendance of 70% a student becomes in eligible to write the end semester examination.

Rule 11.4 The Students must strive to attend all the classes without fail. However, the minimum

attendance requirement of 70% allows a student to use the balance of 30% to account for illness, permitted assignments such as job interviews inter university sports meets, inter-collegiate / inter-university competitions, accidents, unforeseen emergencies etc. An attendance of 70% is considered to be the minimum required for a student to get just enough input on the course syllabus through class room contact hours to make him/her eligible to appear in the end semester Examination.

Rule 11.5, Condonation of Attendance

In rare and genuine cases, a committee consisting of the Director and Head of the concerned Department will examine the case and recommend suitably to the Vice Chancellor who may give condonation of attendance in deserving cases, but not more than 10%.

R. 11.6 The teacher shall announce the particulars of all students who have attendance less than 70% in the class, copies of the same should also be sent to the Dean (Faculty of Law) and Heads of Departments concerned. The students who have less than 70% attendance will not be permitted to appear in end semester examination.

R.11.7 Those students who have not deemed to have completed the semester with reference to the conditions specified above (R.11.6) shall repeat that semester in the next academic year by following the readmission/re-join procedure."

It is evident from the aforesaid rules that in the absence of atleast 60% of attendance, the Petitioner cannot be permitted to take the examination and no fault could be found with the Third Respondent for the impugned decision.

6. Learned Counsel appearing for the Third Respondent relies on the recent decision of the Delhi High Court in *Guru Gobind Singh Indraprastha University Vs. Naincy Sage* (Order dated 19.11.2019 in LPA No. 713 of 2019) in which, it has been held as follows :-

"The importance attached to attendance in classes in a professional course like BA LLB/BBA LLB cannot be overstated. There are a line of decisions of the Supreme Court and the High Courts, where it has been opined that fixation of qualifying standards including minimum percentage of attendance is a matter which is best left to expert academic bodies and courts should be slow to interfere in such policy matters unless the decision taken is patently and palpably arbitrary, illegal or in violation of the Constitution of

India. Once an academic body has decided on a minimum percentage of lectures that a student must attend at every stage or in the aggregate, then courts must show deference to the said decision as the presumption is that being an expert in the field, the body has applied its mind before prescribing an eligibility criteria. (Refer: Ashutosh Bharti V. Ritnand Balved Education Foundation reported as MANU/DE/0024/2005, Siddharth Kaul and Ors. v. Guru Gobind Singh Indraprastha University [W.P. (C) 7610/2011, decided on 02.12.2011] University Grants Commission and Anr. V. Neha Anil Bobde (Gadekar) reported as 2013(10) SCC 519 and Prateek Singhal v. National Testing Agency & Anr. Reported as 2019 SCC OnLine 10873) . "

This Court fully endorses the said view which squarely applies to the facts of this case.

7. The Hon'ble Supreme Court of India in University Grants Commission V. Neha Anil Bobde [(2013) 10 SCC 518], has reiterated the legal position on interference of Courts in academic matters, as follows:-

"31. We are of the view that, in academic matters, unless there is a clear violation of statutory provisions, the regulations or the notification issued, the Courts shall keep their hands off since those issues fall within the domain of the experts. This Court in University of Mysore v. C.D.Govinda Rao [AIR 1965 SC 491], Tariq Islam v. Aligarh Muslim University [(2001) 8 SCC 546] and Rajbir Singh Dalal v. Chaudhary Devi Lal University [(2008) 9 SCC 284], has taken the view that the Court shall not generally sit in appeal over the opinion expressed by the expert academic bodies and normally it is wise and safe for the courts to leave the decision of the academic experts who are more familiar with the problem they face, than the courts2 generally are."

Viewed from that perspective, having regard to the fact that minimum attendance is essential for maintenance of proper standards of education, the prescribed norms in that regard have to be strictly adhered and no exception could be taken to the same. As the relief sought by the Petitioner in this Writ Petition is in flagrant transgression of the aforesaid binding rules, it cannot be granted.

8. Above all, it must be noticed that the Writ Petition itself has been filed on 19.12.2019, that is, after the examinations were completed on 04.12.2019 and results published on 14.12.2019

and next semester classes commenced on 16.12.2019. There is no explanation at all from the Petitioner for the laches in approached this Court belatedly and the Writ Petition has to fail for this reason also.

9. As there are no merits in the Writ Petition, the Petitioner does not deserve any indulgence of the discretionary powers of this Court under Article 226 of Constitution of India.

10. In the result, the Writ Petition is dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ksa/vjt/sj

To

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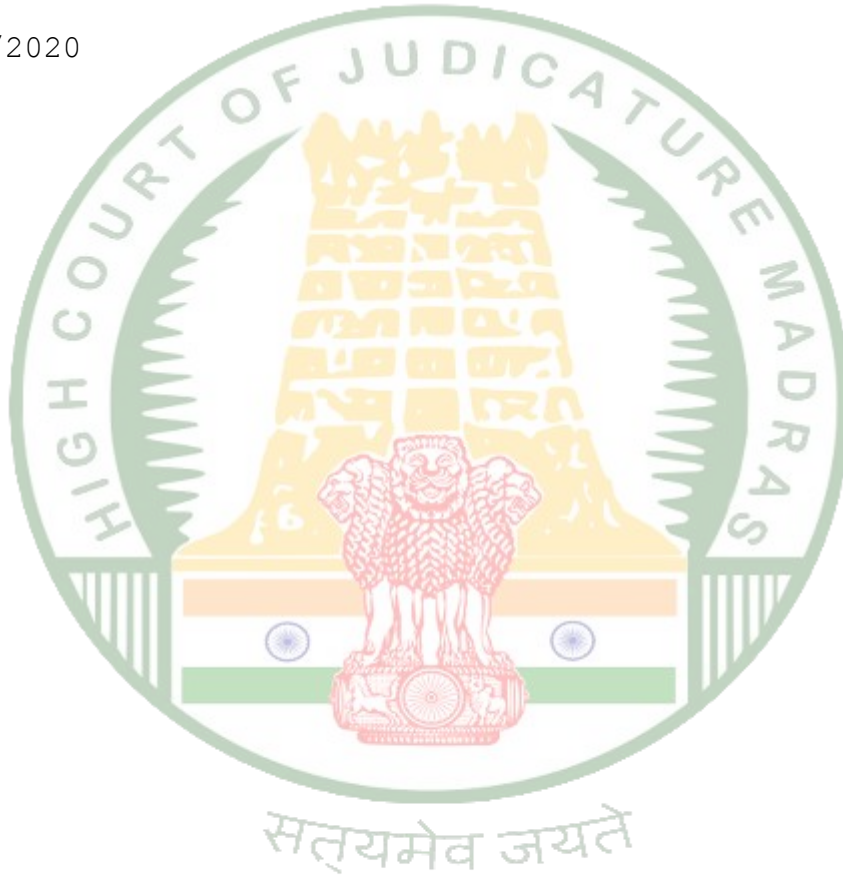
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+1cc to Mr.A.Damodaran, Advocate , S.R. No. 15470

+1cc to M/s. V.Sudha, Advocate, S.R.No. 15525

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RJI (CO)
KKV/10/06/2020



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