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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.NO.2047/2018 AND CMP.NO.16209/2018

Himalayan Edu-Care Institution
rep. by its Co-ordinator
Mr.Rupesh Kumar Singh,
MKS Complex, 5 Road,
Salem-636 004.

... Appellant/Petitioner

-vs-

1. The Registrar,
Periyar University,
Salem-11.
2. The Controller of Examinations,
Periyar University, Salem-11.
3. The Director,
Periyar Institute of Distance Education
(PRIDE), Periyar University,
Salem-11.

...Respondents

Prayer:

Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge made in W.P.No.9000 of 2018 dated 25.06.2018.

Prayer in W.P.No.9000 of 2018:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the third respondent university to consider the petitioners representation dated 1.2.2018 and thereby consequently direct the respondent University to release the candidates Mark lists for the 1st and 2nd year of calendar year batch 2016 and the academic year batch 2016-2017



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For Appellant : Ms.Priyanka
for M/s.Dr.R.Gouri

For respondents : Mr.P.Godson Swaminath
1 and 3

R2 : No Appearance

JUDGMENT

(Judgment of the Court was pronounced by T.RAJA.J)

This Writ Appeal has been directed against the order of the learned Single Judge made in W.P.No.9000 of 2018 dated 25.06.2018 in and by which the prayer of the writ petitioner/appellant herein to issue a Writ of Mandamus, directing the 3rd respondent to consider the representation of the writ petitioner dated 01.02.2018 with a consequential direction to the University to release the candidates' mark lists for the first and second year of the calendar year batch 2016 and the academic year batch 2016-2017, was dismissed.

2. Learned Counsel for the appellant submitted that the appellant Institution was approved by the respondent University for pursuing courses on behalf of the respondent University on 07.09.2015 and on 19.03.2017, the respondent University has released the Examination Circular indicating the examination to be held in May, 2017 and also for change of venue for writing the examinations. Thereafter, on 19.05.2017, a Circular was issued by Periyar University to conduct the examination for degree courses for the students of the appellant Study Centre. Accordingly, the examinations were conducted by the Study Centre under the guidance of the respondent University, thereafter, on 29.08.2017, the respondent University issued notice to the appellant study centre for payment of pending examination fees.

3. Learned Counsel for the appellant further submitted that the appellant's Study Centre was provisionally approved by the respondent University, by proceedings dated 31.08.2015 for conducting Study Centre and for pursuing courses on behalf of the respondent-University. Pursuant thereto, the students were admitted to the respondent University through the appellant Study Centre. One among the Study Centres of the respondent-University is at Salem with Code No.1584 for conducting Distance Education (Correspondence Course). Therefore, it has been pleaded that when 1027 students were admitted for the Under Graduate Courses in the current year 2017, the respondent University should be directed to release their mark lists, but that prayer was rejected. Aggrieved thereby, the present Writ



Appeal has been preferred.

4. Learned Counsel for the appellant also submitted that when the appellant Study Centre was granted permission to admit the students and also to write the examinations, after all the students wrote the examinations, declining to release their results is unjustifiable. Adding further, it is stated that when the results of some of the students were published by the University, it is not known why the results of the other students could be withheld. This aspect has been ignored by the learned Single Judge. When 1510 students have appeared for the examinations and they were allowed to write the examinations, thereafter publishing the results of some of the students and withholding the results of other students is certainly reflecting the discriminative attitude of the Periyar University that will not pass the test of reasonableness under Article 14 of the Constitution of India. Therefore, a direction be issued to publish the results of the other students also, she pleaded.

5. Learned Counsel for the 3rd respondent submitted that the University Grants Commission vide its Public Notice F.No.12-9/2016 (DEB-III) dated 19.07.2016 enjoined the Universities from conducting the Distance Education Programmes from time to time outside the State of their location. While so, the respondent University vide their Circular in PU/PRIDE/UGC/PUBLIC NOTICE/2016 dated 20.05.2016 closed all the Study Centres in other States/Countries and informed them that no admission shall be made in these Centres for the forthcoming years. Although, Periyar University was established in the year 1997 under the Tamil Nadu Periyar University Act, 1997, it has jurisdiction over the districts of Salem, Dharmapuri, Namakkal and Krishnagiri. The University has six Constituent Colleges which form an integral part of the University. The University has got 27 departments and 101 affiliated colleges including 6 Constituent Colleges. Therefore, the University Grants Commission (UGC) has conferred 12(B) status to the University in the year 2005. The National Assessment and Re-accreditation Council (NAAC) have also conferred 'A' Grade with CGPA3.15 out of 4. With these credentials, Periyar University has been offering Distance Education Programmes through Recognized Study Centres wherein the appellant is one such recognized study centres with Centre Code 1584.

6. Learned Counsel for the 3rd respondent further submitted that the Study Centres were directed not to admit students from other States in view of the University Grants Commission Notification mentioned above, with a clear instruction that only those who were admitted before the academic year 2016-17 in Study Centres outside the State, were permitted to sit for examination in their respective Study



Centres, with an understanding that these Study Centres after the completion of the courses by the students admitted before 2016-17 ought to be closed and from the academic year 2016-2017, there will be no study centre outside the State permitted to offer courses through Distance Education Programmes under Periyar Institute of Distance Education (PRIDE). But, interestingly enough, the appellant Study Centre admitted students from Tamil Nadu as well as other States in the country. At the time of admission, the students have given an Undertaking in a Declaration Form that they would write all the examinations in the allotted exam centres in Tamil Nadu and they would attend PCP and Practical classes at the University/Study Centres in the designated places in Tamil Nadu. Totally, the appellant Study Centre has admitted 2695 students in the year 2016-2017 for the Distance Education Programme. After the examination notification for the first year examination for the students admitted in the year 2016-2017, 1510 application forms were received by the respondents from the students admitted in the appellant Study Centre and after processing the examination applications and payment of fee in compliance of the instructions, the University generated Hall Tickets on its website www.periyaruniversity.ac.in for 1510 students of the appellant Study Centre having Centre Code 1584 and more interestingly, the students registered under the appellant Study Centre were allotted the examination centre in Padmavani Arts and Science College for Women, Salem. The examinations were scheduled between 25.05.2017 and 20.06.2017. But none of the students from the Appellant Study Centre admitted after 2016-17 appeared for the examinations in the centre allotted and therefore, they were declared as absentees.

7. Learned Counsel for the 3rd respondent also submitted that when the answer sheets were received from the State Study Centres located in other states which were permitted to conduct the examinations for the students admitted before 2016-2017, it was found that the answer sheets of the students of the appellant study centre were received in the University with Dummi Numbers that were allotted to them and evaluation was also done. But after the evaluation, it was sadly found that the students registered in the appellant Study Centre to their whims and fancies wrote the examinations in the examination centre outside the State, instead of the allotted examination centre. When the appellant Study Centres has flouted the University norms and violated their declarations, the results of the students registered in the appellant study centre were not published. For some of the students, the results were published unknowingly and some of the students, results were withheld by the University and they were also subsequently cancelled on 03.07.2018. Therefore, the question of distinction said to have been made out to the students community is unacceptable. Hence,



the present Writ Appeal is liable to be dismissed.

8. At the outset, the fact that the appellant study centre being one of the recognized study centres with Code No.1584 ought not to have held examinations outside the State without the prior permission of the respondent University. Further, it is not in dispute that there is payment of fees for change of Examination Centre, but, at the same time, it is not applicable to the students those who have joined prior to 2016-2017 and in this regard, instructions were given on 31.01.2018 by the University to the students joined prior to 2016-2017. When there was a specific prohibiting circular in PU/PRIDE/UGC/PUBLIC NOTICE/2016 dated 20.05.2016 that no study centres outside the State shall be permitted to offer the courses through the Distance Education Programme and only those students, who have joined the academic year prior to 2016-2017, were permitted to sit for exams in their respective study centres, it will not give any right to the students who had joined the course after 2016-2017 to write the exams because the appellant Study Centre ought not to have admitted the students from 2016-2017. Therefore, firstly, when there was a fault on the part of the appellant study centre in admitting the students from the academic year 2016-2017, the declaration of the results of the students who violated the circular is untenable. Secondly, the students registered in the appellant Study Centre wrongly wrote their examinations in the examination centre outside the State instead of the allotted Centre, without the prior permission from the respondent University. Thirdly, the appellant Study Centre has flouted the University norms and violated their declarations. Therefore, the results of the students registered in the appellant's Study Centre were not published. When the declaration forms sent by the students make it clear that they have to write the examinations in the Tamil Nadu Examination Centres only, namely, the Examination Centre at Padmavani Arts and Science College for Women, Salem, without choosing that Centre they cannot write the examinations in some other Examination Centre. Therefore, this Court is not able to find any good reason to interfere with the impugned order.

9. In the result, the Writ Appeal is dismissed thereby confirming the order passed by the learned Single Judge in W.P.No.9000 of 2018 dated 25.06.2018. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar



To

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1. The Registrar,
Periyar University,
Salem-11.
2. The Controller of Examinations,
Periyar University, Salem-11.
3. The Director,
Periyar Institute of Distance Education
(PRIDE), Periyar University,
Salem-11.

+1cc to Mr.Issac Chambers, Advocate, S.R.No.39973

W.A.No.2047/2018

BR(CO)
PBS(09/09/2021)