

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.08.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH.,J

W.P.No.11736 of 2021 &
W.M.P.No.12496 of 2021

Mrs.S.Sorubawathy

.. Petitioner

Vs

1. Bharathiyar University,
Coimbatore - 641 046
Tamil Nadu.

2. The Controller of Examination,
Bharathiyar University,
Coimbatore - 641 046
Tamil Nadu

.. Respondents

Prayer .: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified Mandamus to Call for the records in call for the records of the 2nd Respondent's rejection order dated 26.4.2021 rejected the request of the Petitioner to accept his answer sheet in Accounting and Finance for Managers paper in MBA in Hospital Management and quash the same and direct the respondents herein to accept his answer sheet in

Accounting and Finance for Managers paper in MBA in Hospital Management and valuate the same.

For Petitioner : Mr.C.Mohanraj and

Mr.R.Sivamoorthy

For Respondents : Mr.L.P.Shanmugasundaram

Standing counsel for University

ORDER

This writ petition has been filed challenging the communication made by the 2nd respondent dated 26.04.2021, wherein, the request made by the petitioner for accepting her answer sheet in Accounting and Finance for Managers paper in MBA in Hospital Management and for evaluation of the same was rejected by the 2nd respondent.

2. The petitioner is undergoing MBA program in Hospital Management in the 1st respondent University through distance education. Due to the pandemic situation, both the classes as well as the examinations are conducted through on-line. The petitioner

applied for writing the examination for both the 1st and 2nd year and she was allowed to undergo the examination through on-line.

3. The grievance of the petitioner is that the examination for Accounting and Finance for Managers paper in MBA in Hospital Management was held on 26.03.2021. As per the guidelines, the answer sheet has to be uploaded by 1.40 p.m., failing which, the answer sheet will not be evaluated. According to the petitioner, she was not able to upload the necessary answer sheet on time, since the server was down. The petitioner therefore contacted the 2nd respondent and as per the instruction of the 2nd respondent, had sent a mail by attaching the answer sheet at 2.28 p.m. on 26.03.2021. However, the answer sheet was not taken into account and it was not evaluated and the request made by the petitioner was also rejected by the 2nd respondent and aggrieved by the same, the present writ petition has been filed before this Court.

4. A counter affidavit has been filed by the 1st respondent.

The relevant portions in the counter affidavit are extracted hereunder :-

5. *The respondent university conducting the on-line exams during Covid - 19 pandemic condition adopting the exam modalities with utmost care and caution with existing norms of the government from time to time. It is submitted that the petitioner is well aware of the fact that the answer sheet should be uploaded only in the portal within a prescribed time. With regard to the para 3 of the affidavit, the petitioner has stated that she has sent a mail by attaching her answer script to the 2nd respondent mail . As the respondent has to deal the thousand in number of students issue and hence the respondent replied in a single line to the petitioner.*

6. *The respondent is also pleased to submit that the examinations for the PG/MBA/MCA/B.ED for the school of distance education results declared during April 2021*

for 1st year and July 2021 for the 2nd year. The request of the petitioner to evaluate the answer script cannot be complied with as the candidate did not upload the answer script in the portal. There is no such guidelines/rules to evaluate the answer script for one particular candidate after declaring the result. It is submitted that the respondent by considering that the petitioner is on the final year and the petitioner shall be permitted to appear for the said exam immediately which is proposed to be scheduled during September 2021. The petitioner will be allowed to appear for the subject accounting and financing for managers (13C) in the forthcoming examinations either off-line or on-line mode as the situation prevails. Further the respondent has exempted the exam fee for the petitioner.

5. Heard the learned counsel for the petitioner and Mr.L.P.Shanmugasundaram, learned Standing counsel for respondent /University.

6. Before going into the issue that has been raised in this writ petition, it is necessary to take note of the guidelines issued by

the 1st respondent university and the relevant guidelines are extracted hereunder :-

11. After completion of the examination, the candidates should scan each written page in an order serially and compile in a single file in PDF and upload the PDF. It must be ensured before uploading the PDF that only written sheets are scanned and complied as PDF. No blank page should be inserted while compiling the answer pages in to PDF.

12. Candidates should complete the examination at 1.00 p.m. And start uploading the answer sheets in a single PDF at 1.00 P.m. Online portal will be closed at 1.40 p.m. Uploading cannot be done after 1.40 p.m. Further extension of time will not be provided.

13. The answer scripts will be considered through PORTAL ONLY. Other modes (email, whatsapp, hard copy) will not be considered.

7. It is clear from the above guidelines that the candidate should complete the examination by 01.00 PM and start uploading the answer sheets in the online portal and it should be completed by 1.40 PM. It has been made clear that no further extension of time will be granted and if the answer sheets are not uploaded on time, it will not be evaluated. Insofar as the hard copy of the answer sheet is concerned, the same has to be kept ready by the students and as and when any situation arises, it should be submitted to the University.

8. Conducting classes and examinations through on-line mode is a new phenomenon that has come into existence in the last 1 ½ years due to the pandemic situation. There is no possibility for conducting physical classes or writing examinations through physical mode due to the deadly virus. Therefore, the universities are devising ways and means to ensure that the education process continues without any major disruption and the only manner in which this can be done in the given circumstances

is through on-line mode.

9. Conducting examinations through on-line mode is challenging, since there is no absolute fool proof method to ensure that all the candidates are genuinely writing the examinations without copying. It is for this reason, the universities are insisting for uploading the answer sheets within a stipulated time. If such a stipulation of time is not mandated, a candidate can sit and copy all the answers and send the answer sheet at leisure. Ultimately, this will only affect the standard of education.

10. It is also true that there are some practical difficulties in uploading the answer sheets since, there will be network issues due to which a candidate may not be able to successfully upload the answer sheets. It is also possible that the on-line portal may be down due to the volume of messages received in the portal. Such network issues are encountered even by this Court while conducting proceedings through video conference. However, somewhere a line has to be drawn and even in cases, where there

was difficulty in uploading the answer sheets due to any reason, the same cannot be exempted from the mandate stipulated in the guidelines, since it will open floodgates. It will be possible for many such candidates to come up with the plea that they were not able to upload the answer sheets and so many reasons can be given to justify the same. All those reasons can never be verified with authenticity. Therefore, the guidelines will have to be strictly adhered to and must be applied equally across the board. This will prevent any arbitrariness while dealing with issues, where answer sheets are uploaded beyond the time stipulated in the guidelines.

11. In the present case, admittedly the petitioner was not able to upload the answer sheet before 1.40 PM. Probably, the reason given by the petitioner for not being able to upload the answer sheet may also be genuine. However, if an exception is created for the petitioner, there will be several more writ petitions which may come up before this Court, where candidates may come up with more and more reasons for not being able to upload the

answer sheets. It will become impossible for this Court to handle a situation like that. Therefore, inspite of the fact that the petitioner was able to upload the answer sheet on the same day ie., on 26.03.2021 at 2.28 pm, since it is beyond the time stipulated under the guidelines issued by the first respondent university, this Court cannot direct the respondents to receive the answer sheet and evaluate the same. By issuing such directions, this Court will be indirectly encouraging violation of the guidelines given by the 1st respondent university.

12. The learned counsel appearing on behalf of the respondents submitted that the exam for the very same paper is now proposed to be held during September 2021 and the petitioner will be permitted to take the exam and the exam fee will not be collected from the petitioner. The learned counsel therefore submitted that no irreparable damage has been caused to the petitioner and the petitioner can take the exam during September 2021 and clear the same.

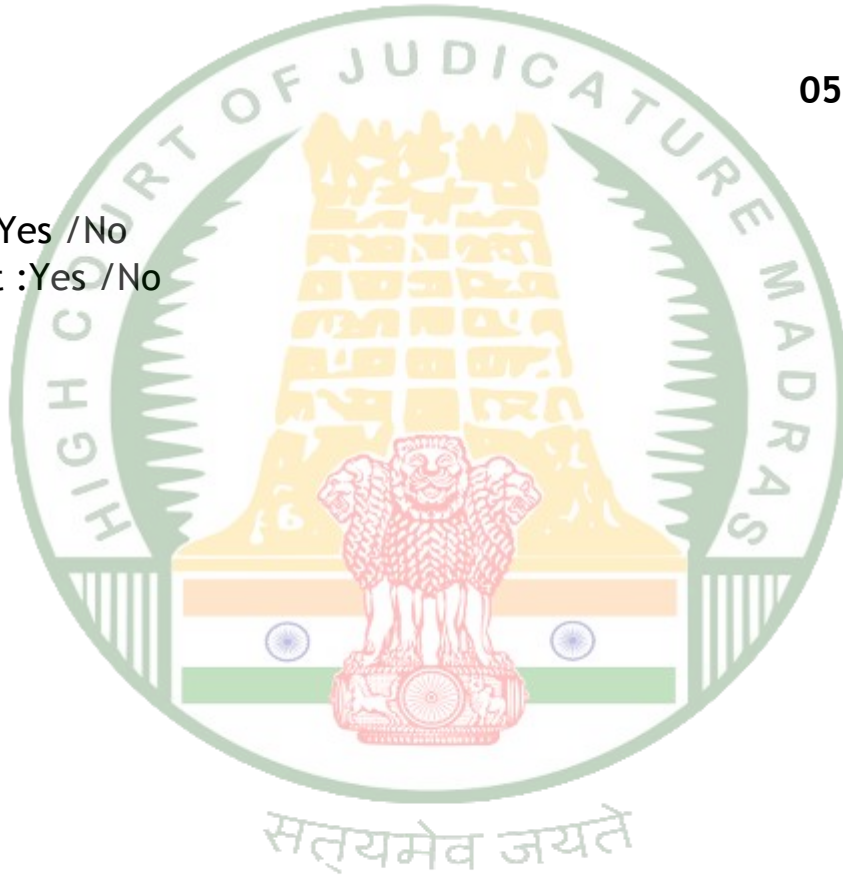
13. It is brought to the notice of this Court that the petitioner has cleared all the other papers except the Accounting and Finance for Managers paper and that too because it was not evaluated for having uploaded the same beyond the time stipulated in the guidelines. It is quite unfortunate that the petitioner has to go through the exam once again. However, it cannot be held that the petitioner will be facing an irreparable damage and the petitioner can easily take the examination during September 2021 and clear the same. A fee exemption has also been given for the petitioner

14. In view of the above discussion, this Court is not inclined to interfere with the rejection order passed by 2nd respondent and accordingly, the writ petition stands dismissed. No

costs. Consequently, the connected miscellaneous petition is closed.

05.08.2021

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Index : Yes /No
Internet :Yes /No



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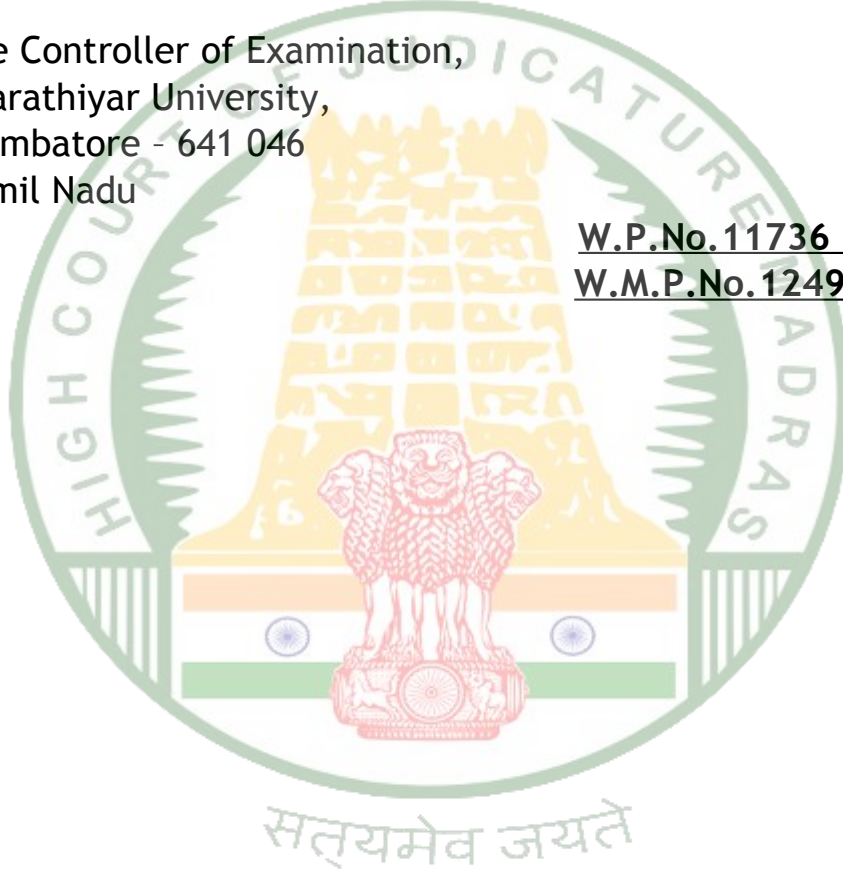
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To

1. Bharathiyar University,
Coimbatore - 641 046
Tamil Nadu.

2. The Controller of Examination,
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