



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2021

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.317 of 2013 and
M.P.No.1 of 2013

Govinda Pandey

...Petitioner

Vs.

1.The Government of India,
Ministry of Human Resources and Development,
New Delhi.

2.The National Institute of Technology,
Tiruchirappalli,
Represented through its
The Registrar,
Tamil Nadu - 620 015.
India.

3.The Central Bureau of Investigation,
CBI ACB,
Sasthri Bhavan,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the order of the second respondent in DASA 2010/Admission/3 dated 24.12.2012 and quash the same.

For Petitioner : Mr.V.R.Shanmuganathan

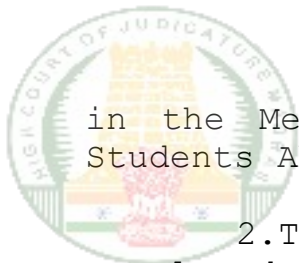
For R1 : Mr.Mr.S.Jeyasingh

For R2 : Ms.J.Maria Roseline

For R3 : Ms.L.Victoria Gowri
Assistant Solicitor General of India

O R D E R

The subject matter of challenge in the present Writ Petition is the impugned order passed by the second respondent dated 24.12.2012, cancelling the provisional admission given to the petitioner with immediate effect. The petitioner was admitted



in the Mechanical Engineering Course under Direct Admission of Students Abroad (DASA -2010) quota.

2.The petitioner joined in the course in the year 2010 and completed three years. During the fourth year, the impugned order came to be passed by the second respondent, cancelling the admission given to the petitioner on the ground that the petitioner has not fulfilled the eligibility criteria as per the norms of DASA-2010.

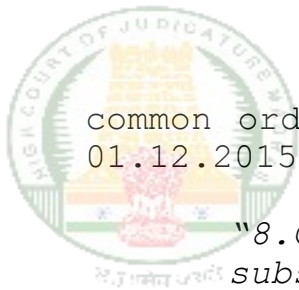
3.There were five students, whose admissions were cancelled by the second respondent on the very same ground of non-fulfillment of eligibility criteria. Three of the students filed Writ Petitions before the Principal Bench in W.P.Nos.1 of 2013, 179 of 2013 and 35613 of 2015. Rest of the two students have filed Writ Petitions before the Madurai Bench of Madras High Court.

4.The learned counsel for the petitioner submitted that the Principal Bench has allowed all the three Writ Petitions and has quashed the impugned order passed by the second respondent and has directed the issuance of the Degree Certificate along with all other certificates and mark sheets. It was further submitted that the orders passed by the learned single Judge has also become final and no appeal was also filed against the same. The learned counsel therefore submitted that the same relief will also enure to the benefit of the petitioner.

5.Per contra, the learned Standing Counsel appearing on behalf of the second respondent submitted that in terms of eligibility criteria, the petitioner failed to satisfy certain basic criteria and therefore the present case can be factually differentiated from other three cases that was referred by the learned counsel for the petitioner. The learned counsel submitted that there was a large scale irregularity that was committed while admitting the students under DASA - 2010 and the same became the subject matter of investigation by the CBI and therefore action had to be taken by the second respondent. The learned counsel therefore submitted that this Court can independently deal with the Writ Petition after considering the merits of the petitioner.

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

7. It may be true that factually the case of the petitioner will be different from the facts involved in the other three Writ Petitions that were decided by the Principal Bench. However, it becomes important to take note of the reason that was assigned in the three Writ Petitions, which were allowed by the Principal Bench. For proper appreciation, the relevant portions in the



common order passed in W.P.Nos.1 of 2013 and 35613 of 2015, dated 01.12.2015 are extracted hereunder.

"8.Coming to the merits of the case, it appears that substantially mistake lies with the respondents. When a student without satisfying the eligibility criteria applies, the appropriate authority is bound to look into the application, scrutinize the same and reject it at the earliest point of time. An application made without satisfying the requisite criteria per se would not amount to a fraud having been committed.

9.As of now, there is no material to hold the complicity on the part of the petitioners. The petitioner's son was given due admission by the respondents. Thus, even the respondents got a substantial role in the entire episode and the respondents have woke up after the completion of the third year by the petitioner and passed order impugned dated 24.12.2012 without even affording an opportunity. Such an unilateral cancellation cannot be sustained in the eye of law. Certainly, the doctrine of estoppel would apply in such an eventuality. Considering the similar issue, it has been held by the Apex Court in *Guru Nank Dev University Vs. Sanjay Kumar Katwal and another*, (2009) 1 SCC 610, wherein the Supreme Court has taken note of a well quoted decision rendered in *Shri Krishnan Vs. Kurukshetra University*, (1976) 1 SCC 311 and observed as under:

"20.This Court in *Shri Krishnan Vs. Kurukshetra University* ((1976) 1 SCC 311) has observed that before issuing the admission card to a student to appear in Part I Law examination, it was the duty of the university authorities to scrutinize the papers; and equally it was the duty of the Head of the Department of Law before submitting the form to the university to see that it complied with all requirements; and if they did not take care to scrutinize the papers, and candidature for the examinations cannot be cancelled subsequently on the ground of non-fulfilment of requirements."

10.Similarly, in the very same decision of *Guru Nanak Dev University*, by taking note of the subsequent decision rendered in *Sanatan Gauda Vs. Berhampur University*, ((1990) 3 SCC 23), the Apex Court was pleased to hold as follows:

"21.In *Sanatan Gauda Vs. Berhampur University*, ((1990 3 SCC 23), this Court held where the candidate was admitted to the Law course by the Law college and



the university also permitted him to appear for Pre-Law and Intermediate Law examinations, the college and the university were estopped from withholding his result on the ground that he was ineligible to take admission in the Law course.

22. Having regard to the above we are of the view that irrespective of the fact that MA (English) (OUS) degree secured by the first respondent from Annamalai University through distance education, may not be recognized as an equivalent to the Master's degree of the appellant University, his admission to the law course should not be cancelled. The appellant university is directed to treat the admission as regular admission and permit the first respondent to appear for the law examination, and if he has already appeared for the examination, declare his result. The appeal is disposed of accordingly.

11. The ratio laid down by the Apex Court in the above said three decisions would be applicable to the case on hand. In pursuance to the interim order granted, the petitioner's son has duly completed the course. Therefore, not only the law but the equity also lies in favour of the petitioners. It is not as if the said seat can be utilised for any other student at this point of time. Thus, looking from any angle, this Court is of the view that the petitioners are entitled for the relief sought for. The petitioner's son did complete the Course successfully on merit. In other words, though it can be said that the entry of the petitioner's son into the College may not be correct, but his successful completion of the Course is based upon his performance. The respondents have also issued, though in compliance of the interim order, the provisional certificate acknowledging the completion of course by the petitioner's son.

12. Considering the above facts, particularly, when there is no contra material available against the alleged fraud said to have been committed by the petitioner's son, this Court is of the considered view that both the writ petitions are liable to be allowed. Accordingly, the impugned order dated 24.12.2012 passed by the 3rd respondent is set aside and W.P.No.1 of 2013 is allowed. Consequently, W.P.No.35613 of 2015 is also allowed by directing the respondent to issue the Degree Certificate along with the incidental certificates of consolidated marks sheet to the petitioner within a period of four weeks from the date



of receipt of a copy of this order so as to enable him to pursue his further studies elsewhere. No costs. However, it is made clear that the decision has to be understood on the factual context involved in the present cases before this Court."

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8.The above order was also subsequently followed by another learned single Judge, while allowing the Writ Petition in W.P.No.179 of 2013, by order dated 26.02.2016.

9.A careful reading of the above orders shows that the Writ Petitions were allowed only on the ground that the impugned order was passed without affording an opportunity and unilateral cancellation of the admission cannot be sustained in the eye of law. The learned single Judge also took note of the fact that there was complicity even on the part of the respondents, as a result of which, the petitioners had completed three years out of four years, which is the duration of the course and at the fag end, their admissions came to be cancelled. This Court therefore found that the impugned order passed by the second respondent cannot be sustained. In none of the above orders, the learned single Judge went into the merits of the case and there is absolutely no discussion with regard to the non-fulfillment of the eligibility norms.

10.Reasoning that was given in the above orders will also equally apply to the case of the petitioners. Even in the present case, the impugned order passed by the second respondent was stayed by this Court and the petitioner had also completed the course and written examinations. The order passed by the learned single Judge in the above three Writ Petitions has become final and the second respondent has not chosen to file any appeal against the same. Therefore, the petitioners cannot be treated differently and what applied to the three students in the above Writ Petitions will also equally apply to the petitioner in the present Writ Petition.

11.In view of the above, the impugned order passed by the second respondent dated 24.12.2012 is hereby quashed and there shall be a direction to the second respondent to issue a Degree Certificate along with the incidental Certificates and consolidated mark sheets to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. The order passed in the present Writ Petition is only based on the peculiar facts of the present case and also based on the earlier orders passed by this Court and therefore, it cannot be taken as a precedent in any other case.



12. In the result, this Writ Petition is allowed with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Ministry of Human Resources and Development,
Government of India,
New Delhi.

2. The Registrar,
National Institute of Technology,
Tiruchirappalli,
Tamil Nadu - 620 015.
India.

3. The Central Bureau of Investigation,
CBI ACB,
Sasthri Bhavan,
Chennai.

+1 CC to MR.S.JEYASINGH, Advocate (SR-17839[F] dated 28/04/2021)

Order made in
W.P. (MD)No.317 of 2013 and
M.P.No.1 of 2013
Dated 27.04.2021

KM(24.05.2021) 6P 5C