



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2021

CORAM :

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.7629 of 2021

Jayaganesh

...Petitioner

Vs.

1.The Vice Chancellor,
Madurai Kamaraj University,
Madurai.

2.The Principal,
Senthirakumara Nadar College,
Virudhunagar.

3.The Head of the Department,
M.B.A.Department,
Senthirakumara Nadar College,
Virudhunagar.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to allow the Petitioner to join the second respondent College and attend the classes as usual in M.B.A Course(2019-21) Course.

For Petitioner : Mr.J.Vishnu

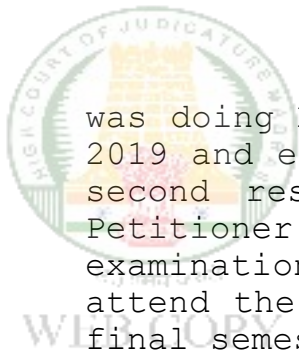
For Respondent-1 : Mr.Ragatheesh Kumar
for Issac Chambers

For Respondents : T. Pon Ramkumar
2 and 3

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus directing the respondents to permit the Petitioner to join the second respondent/College and attend the classes in M.B.A Course.

2.The case of the Petitioner is that after the completion of his under-graduation, he joined the second respondent College and



was doing M.B.A. Course. This is a two year course commencing from 2019 and ending in the year 2021. According to the Petitioner, the second respondent initiated disciplinary proceedings against the Petitioner for some mal-practice that was done during the online examination and thereafter, the Petitioner was never allowed to attend the classes. The Petitioner was also not allowed to take the final semester exams.

3.The second respondent has filed a counter affidavit in this case. The relevant portions in the counter affidavit are extracted hereunder:

'2.I respectfully submit that the second respondent College is an Aided Non-Minority(Autonomous) College. The Petitioner herein was admitted in two year M.B.A Degree Course in the second respondent College. As regards the averments contained in Para Nos.2 to 5 of the affidavit filed in support of the Writ Petition by the Petitioner herein to the effect that admission of the Petitioner in the second respondent College in the M.B.A Course is admitted one and the contention with regard to Petitioner is a law-abiding student is denied as false one. The Petitioner herein suppressed the material fact about the malpractice done by the Petitioner in the second semester examination. Petitioner herein has not approached this Honourable Court with clean hands. I respectfully submit that due to Covid-19 issue curfew was implemented throughout the State. Accordingly, all Colleges including the second respondent College was closed. Since second respondent College is an autonomous College, the second respondent herein has conducted an examination through online method. On 20.1.2021 an examination for second semester of Human Resource Management subject in M.B.A Course was conducted in online and the students have uploaded their answer sheet in the web-site. The Assistant Professor of Department of Management Studies in the second respondent College has reported to the Chief Superintendent of Summative examination of the second respondent College that Petitioner and M.Maria Hema have committed malpractices in the examination. On verification of the answer sheet, it was brought to the knowledge of the third respondent that the students have exchanged their answer sheets and in some cases some other relatives of the student has written the answer sheet and uploaded in the College Web-sites.

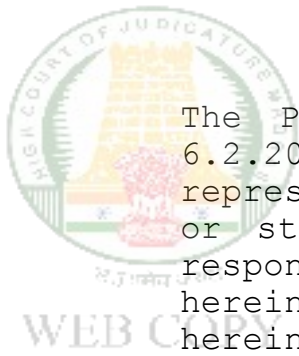
3.I respectfully submit that insofar as Petitioner is concerned, Petitioner has uploaded the answer sheet of one M.Maria Hema who is also the student of the MBA Course. In the uploaded mark sheet first page contains the



particulars of the other students and the first page was also written by the said M.Maria Hema. Likewise five other students has also committed the similar kind of exchange of mark sheets. On coming to know of the said mal-practice, all the students were directed to submit a hot copy of the answer sheets. The Petitioner herein and the said M.Maria Hema has submitted the answer sheet and the said answer sheets were written by the Petitioner's own handwriting. Since uploading answer sheets and hot copy of the answer sheets were differed, the Petitioner's and M.Maria Hema and four other students results were withheld by the second respondent College. However due to Covid-19 issue, the second respondent College was not in a position to conduct a detail enquiry. However in the interest of students all the six students including the petitioner herein were permitted to attend the online classes. In fact Petitioner and others have also permitted to writ the third semester and the Petitioner has also passed the third semester examination.

4.The averments made in para number 5 to 8 of the affidavit filed in support of the Writ Petition that the Petitioner was illegally prevented from attending the second respondent College from 5.2.2021 is denied as false one. I respectfully submit that after lifting lock-down, the second respondent College was opened on 28.12.2020. The Petitioner was permitted to attend the class also. Thereafter an Enquiry committee was constituted by the second respondent herein to enquire about the malpractices done by the six students in the second semester examinations. An Enquiry Committee consisting of four persons were constituted and accordingly, the Enquiry Committee has issued a notice on 2.2.2021 calling upon the six students including the Petitioner herein to appear for the enquiry committee for an enquiry along with their parents. The Petitioner herein and M.Maria Hema and others were appeared along with their parents before the enquiry committee and Petitioner and others have admitted their guilt and submitted their unconditional apologies. Though the allegation levelled against the Petitioner and five others were severe in nature, considering the future of the students it was unanimously decided by directing the Petitioner and five others to write the second semester examination afresh. Since Petitioner has appeared along with his mother in an enquiry and malpractice of the Petitioner was brought to the knowledge of the mother of the Petitioner herein, from 6.2.2021, Petitioner and others have not attended the class. In the meanwhile, again the second respondent College was closed due to Covid-19 issue from 22.3.2021. At any point of time, the second respondent herein or his subordinates pressurized the Petitioner herein to get back

<https://hcservices.courts.gov.in/hcservices> Certificate from the second respondent College.



The Petitioner himself is not attending the class from 6.2.2021. The Petitioner has not made any complaint or representation to this respondent or head of the department or staff of the second respondent College or the first respondent herein that the College or the first respondent herein that the College has not permitted the Petitioner herein to attend class or about the alleged allegations.''

4. It is clear from the counter affidavit filed by the second respondent and the documents filed in support of the counter affidavit that the Petitioner was involved in mal-practice at the time when the online examination was conducted and the Petitioner had uploaded the answer sheet of another candidate by name M. Maria Hema. The guilt was also accepted by the Petitioner during the enquiry which was attended by the Petitioner along with his mother.

5. The second respondent College therefore took a decision on 6.2.2021 to impose punishment on both the Petitioner as well as the said Maria Hema and cancelled all the theory and practical papers including arrear papers, in which, they appeared during April 2020. Further they have been directed to re-do these papers during November 2021 examinations.

6. It can also be seen that the Petitioner had absented himself for nearly 58 days out of 79 days during the fourth semester and therefore, the Petitioner has to necessarily re-do the fourth semester before the second respondent/College. The second respondent College has taken a very specific stand that there was no pressure on the Petitioner to take his Transfer Certificate and the Petitioner can re-do the fourth semester by attending classes.

7. In view of the above, the Petitioner is directed to re-do the fourth semester by attending all the classes, with full attendance. That apart, the Petitioner can also write all the papers again, in which, he appeared in April 2020 (second semester). This Court does not find any ground to interfere with the punishment imposed by the second respondent/College. In fact, the punishment imposed by the Committee, was also subsequently approved by the second respondent College.

8. This Writ Petition is disposed of accordingly. No costs.

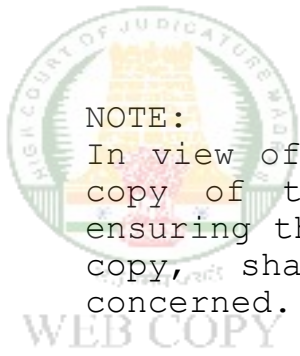
Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar



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

The Vice Chancellor,
Madurai Kamaraj University,
Madurai.

+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-17257[F] dated 23/04/2021)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-17255[F] dated 23/04/2021)

Order made in
W.P. (MD) .No.7629 of 2021
Dated:22.04.2021

VSN
MS/24.05.2021/5P.4C