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W.P.No.20432 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 03.11.2022

Pronounced on : 12.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.20432 of 2013

and

M.P.No.1 of 2013

S.Thamizharasan

Vs.

...Petitioner

- 1.The University Grants Commission,
Rep.by its Secretary,
New Delhi – 110 002.
- 2.The Ministry of Human Resource Department,
Rep.by its Secretary,
Department of HRD., New Delhi-110 001.
- 3.The Secretary to Government,
Department of Higher Education,
Fort St.George,
Chennai-600 009.
- 4.The Secretary to Government,
Department of Higher Education and
Ex.officio Member – Syndicate,
University of Madras,
Chennai-600 005.
- 5.The Chancellor of the State Universities
and the Governor of Tamil Nadu,
Chennai-600 022.



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6.The University of Madras,
Rep.by its Registrar,
Chennai-600 005.

7.The Head of the Department,
Department of Pharmacology and
Environmental Toxicology,
University of Madras,
Tharamani, Chennai-600 113.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with copy of the relevant pages of the Application Forms for Ph.D. Admission in the Madras University regarding the permission / consent / comment of the Guides and HODs, and the other Universities in Tamilnadu and quash the Columns the Ph.D. Application Forms that require the Guides Prior Permission / Consent / Comment to join the Ph.D. Program and further directing the 6th and 7th respondents to pay a just and reasonable sum as compensation to the Petitioner for the irreparable injury and mental agony caused by them due to refusal of admission to him in the Ph.D. Program in 2010.(Prayer Amended as per order dated 14.03.2018 by RMDJ in WMP No.6640 of 2018 in W.P.No.20432 of 2013)

For Petitioner : Mr.S.Sathia Chandran
For Respondents: Mr.P.R.Gopinathan[R1 – UGC]
Mrs.N.Senthilselvi,
Govt.Advocate [R3 & R4]
Mr.A.S.Vijayaraghavan [R6]
R2 – Not ready in Notice
R5 – No Appearance

ORDER

This writ petition was originally filed by the petitioner, calling for the entire records connected with the proforma of Application for Admission to Ph.D. Degree program of the 6th Respondent - University of



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Madras and quash Column no.25 therein and consequently direct the 7th Respondent to admit the petitioner in the Ph.D. Pharmacology Full Time Program.

2. The above prayer was amended as per the order of this Court in W.M.P.No.6640 of 2018 in W.P.No.20432 of 2013 dated 14.03.2018, which reads as follows:

“This writ petition is filed by the petitioner to call for the entire records connected with copy of the relevant pages of the Application Forms for Ph.D., Admission in the Madras University regarding the permission / consent / comment of the Guides and HODs, and the other Universities in Tamilnadu and quash the Columns, the Ph.D., Application Forms that require the Guides Prior Permission / Consent / Comment to join the Ph.D., Program and further directing the 6th and 7th respondents to pay a just and reasonable sum as compensation to the petitioner for the irreparable injury and mental agony caused by them due to refusal of admission to him in the Ph.D., Program in 2010.”

3. Background to the Writ Petition :

The Petitioner completed/ passed B.Sc.(Zoology) Degree Examination in Thiruvalluvar University with First class in April 2006 and



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M.Sc.(Pharmacology) at University of Madras in April 2009. The petitioner successfully completed the 3 year M.Sc. Pharmacology Course as a regular student obtaining 64.81%. The above marks was over and above the required minimum mark of 55% as per Ph.D. Regulations, in the P.G.Exam. The petitioner approached the 7th Respondent for admission in the 7th Respondent Department in July 2009. The petitioner was advised to wait for a year. The following year, the petitioner applied for admission to the Ph.D. Full Time Program in the 7th Respondent Department in April 2010. The petitioner passed the Entrance Test for admission in the Ph.D. Full Time Program in April, 2010. Three applicants including the petitioner took the entrance test and all the three applicants cleared the exam. However, except the petitioner, the other two applicants were admitted in the Ph.D. Program by the 6th and 7th Respondents. Though the petitioner passed the qualifying Entrance Test, the 7th Respondent refused to admit him to the Ph.D. program.

4. On refusal of the 7th Respondent, the petitioner sent a representation dated 08.08.2011 to Respondents 3, 4 and 6 seeking their intervention with regard to the admission in the Full Time Ph.D. program.



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The petitioner waited for two years after passing Entrance Test to get the admission in the above said Ph.D. program. The representation dated 08.08.2011 was forwarded to the 6th Respondent by 3rd and 4th Respondents and a report was sought for taking further action vide letter dated 06.09.2011. The Respondents 3 and 4 vide letter dated 31.10.2011 sought a detailed report from the 6th Respondent as to why the petitioner was not admitted to the Full Time Ph.D. program. The 3rd and 4th Respondents vide letter dated 13.12.2011 directed the 6th Respondent to place the matter before the Syndicate for decision and the 6th Respondent was also directed to furnish the Action Taken Report on the representation of the petitioner dated 08.08.2011. It is submitted that the 6th Respondent did not place the matter before the Syndicate for a final decision.

5. The petitioner filed a writ petition in W.P.No.26024 of 2011 seeking a direction to the Respondents 1 to 3 to consider and pass appropriate orders on the representation made by the petitioner seeking admission to Ph.D. Program with the 7th Respondent Department. This Court was pleased to dispose of the writ petition vide Order dated 19.01.2012, directing the University to notify the available seats for



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admission to Ph.D. course in compliance with the guidelines issued by the 1st Respondent herein while directing the Respondents 1 to 3 to take a final decision on the petitioner's representation dated 08.08.2011 within 15 days from receipt of the order and pass appropriate speaking order in accordance with law. The relevant portion of the order of this Court dated 19.01.2012, is extracted below:

"15. However, keeping in view the limited prayer in this writ petition, and also keeping in view the obligation of the University to notify vacancies, this writ petition is disposed of by directing the University to notify the available seats for admission to Ph.D., course in compliance with the guidelines, issued by the University Grants Commission.

16. The Respondent nos. 1 to 3 are further directed to take a final decision on the representation, filed by the petitioner and pass appropriate speaking order thereon in accordance with law."

6. It is stated that the above order has not been complied with and the petitioner is not in receipt of any communication disposing of his representation dated 08.08.2011 nor was the matter placed before the Syndicate. It is further stated that no final orders have been passed. In the meanwhile, on 23.07.2012, the 6th Respondent addressed a letter to the

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petitioner, wherein, it was stated that the Guide, Prof.Dr.M.P.Balasubramanian refused to give consent to be the Ph.D. Guide, Supervisor to the petitioner. The above proceeding has not been challenged by the petitioner, which is stated was only in view of the fact that they were not served with the said proceeding whereby Prof.Dr.M.P.Balasubramanian refused to give consent to be the Ph.D. Guide, Supervisor to the petitioner.

7. Since considerable time was spent waiting for the decision of the 6th and 7th Respondents with regard to the petitioner's admission for Ph.D. course, the petitioner applied for admission to Ph.D. Degree in ACS Medical College and Hospital, Chennai, where he joined as Assistant Professor. The petitioner was admitted on 10.09.2013 and submitted his synopsis in Ph.D. program on 22.04.2016 and Thesis for evaluation on 05.08.2016. Thereafter, the petitioner completed his Viva-Voce and was conferred with Ph.D. on 13.02.2017.

8. It is submitted by the learned counsel for the Respondents that the petitioner having completed the Ph.D. Programme subsequent to the filing of the writ petition, the need for examining the issue raised may not arise. It



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was further submitted that the writ petition itself is infructuous in view of the subsequent development and the attempt by the petitioner to continue to challenge the grounds with regard to the validity of Column 25 of the Application Form has become purely academic and thus this Court may not examine the above issue.

9. Heard both sides, perused the materials available on record.

10. The writ petition was originally filed with a prayer to issue a certiorarified mandamus, calling for the entire records connected with the application for admission to Ph.D. Degree program of the 6th Respondent – University of Madras and quash Column No.25 thereof and consequently direct the 7th Respondent to admit the petitioner in the Ph.D., Pharmacology Full Time Program. However, in view of the fact that the petitioner has been conferred with Ph.D. Degree by ACS National College on 13.12.2017. The prayer was sought to be amended by filing an amendment petition in W.M.P.No.6640 of 2018, which was ordered by this Court on 14.03.2018 as stated supra.

11.1. The writ petitioner having amended his prayer to seek compensation may not be in a position to do so unless, it is shown that



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Column No.25 of the application is arbitrary and invalid and / or the refusal by the Guide to act so, which was informed to the petitioner vide communication dated 23.07.2012 was bad and illegal. However, in view of the subsequent development viz., the petitioner having completed and being conferred with Ph.D. Degree by ACS National College, the challenge to the condition/ column in the application may no longer survive. In any view, the above issue appears to have become academic. Normally, Courts would exercise restraint in examining challenges which are academic or hypothetical. The focus/ purpose of the present writ petition appears to stand altered from one seeking admission to claiming compensation for the denial of the admission. Though Courts have considered the claim of compensation under Article 226 of the Constitution of India or in other words claim of compensation though not beyond the realm of judicial review, in this regard, the following judgments may have relevance:

i) Chandigarh Administration and another vs. Jasmine Kaur and others reported in (2014) 10 SCC 521.

ii) Asha vs. Pt.B.D.Sharma University of Health Sciences reported in (2012) 7 SCC 389.

iii) The judgment of this Court in W.P.No.16762 of 2017 dated



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07.09.2022.

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However, a closer look at the above cases would reveal that the grant of compensation was incidental to the main prayer and not the primary relief claimed. As a matter of fact, it has also been clarified in *Chandigarh Administration and another vs. Jasmine Kaur and others* reported in (2014) 10 SCC 521, that no relief can be granted even though the prospectus is declared illegal or invalid, if the same is not challenged promptly, the relevant portion of the order/judgment reads as under:

"33.7. No relief can be granted even though the prospectus is declared illegal or invalid, if the same is not challenged promptly. Once the candidate is aware that he/she does not fulfil the criteria of the prospectus he/she cannot be heard to state that, he/she chose to challenge the same only after preferring the application and after the same is refused on the ground of eligibility."

11.2. In the present case, applying the above test, the petitioner after challenging Column 25 of the application form has proceeded to complete his Ph.D. in another University. With the change in circumstance / subsequent development, the primary relief sought for by the petitioner is the claim for compensation, the challenge to Column 25 of the Ph.D.



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Application Form appears to be only to support and in aid of the claim of compensation.

12. In the circumstances, I am not inclined to examine the claim of compensation nor the validity of Column 25 of the Application form. However, liberty is granted to approach the appropriate forum seeking damages if the petitioner is so advised. The time spent in pursuing the present writ petition shall stand excluded for the purpose of reckoning the limitation, if any, if the petitioner chooses to seek damages before the appropriate forum.

13. The writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

12.01.2023

Index: Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

ssn/mka

To:

- 1.The Secretary,University Grants Commission,
New Delhi – 110 002.
- 2.The Secretary, Ministry of Human Resources Department,
Department of HRD., New Delhi-110 001.
- 3.The Secretary to Government,
Department of Higher Education,Fort St.George,Chennai-600 009.
- 4.The Secretary to Government,
Department of Higher Education and Ex.officio Member – Syndicate,
University of Madras, Chennai-600 005.
- 5.The Chancellor of the State Universities
and the Governor of Tamil Nadu,
Chennai-600 022.
- 6.The Registrar,University of Madras,
Chennai-600 005.
- 7.The Head of the Department,Department of Pharmacology and
Environmental Toxicology,University of Madras,
Tharamani, Chennai-600 113.

Pre-delivery Order made in
W.P. No.20432 of 2013 and
M.P.No.1 of 2013

12.01.2023

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