



W.P.No.18246 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.18246 of 2020

and

W.M.P.No.22634 of 2020

1.G.D.Wenish
2.Dr.N.Sivakumar
3.S.Madhan Britto
4.K.Arumuganainar
5.P.Suresh Kumar
6.J.Sadeesh Bosco
7.C.Arjunan
8.R.Ramaswamy
9.P.Ramesh

... Petitioners

Vs.

1.All India Council for Technical Education,
Rep by its Chairman,
Nelson Mandela Marg,
Vasant Kunj, New Delhi 110 070.

2.The Registrar,
Centre for Affiliation of Institutions,
Anna University, Chennai 600 025.

3.The Director of Technical Education,
Directorate of Technical Education,
Guindy, Chennai 600 025.



W.P.No.18246 of 2020

4. The Regional Director,
Southern Regional Office,
All India Council for Technical Education,
'Shastri Bhavan' No.26, Haddows Road,
Nungambakkam, Chennai 600 006.
5. The Additional Central Provident Fund Commissioner,
Employees Provident Fund Regional Office,
No.37, Opposite to Swagat Hotel, Royapetta High Road,
Chennai 600 014.
6. Ponjesly College of Engineering,
Rep by its Chairman,
Nagercoil - 629 003, Kanniyakumari District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first, second, third and fourth respondents especially the third respondent to initiate further action against the 6th respondent / Institution duly considering the petitioner's Appeal by way of joint mail dated 09.10.2020, not only directing the 6th respondent to return forthwith the petitioners' original B.E & M.E Degree Certificates, the salary arrears of each, the last paid rate as mentioned at paragraph - 3 from March 2020 to up to date of handing over the original certificates together with interest at the rate of 12% per annum on the strength of the petitioners' joint mail dated 18.09.2020 submitted before the 6th respondent, besides the pay weightage as per VI pay commission recommendations, gratuity and other allowances together with damages at the rate of Rs.5,00,000/- each apart from returning forthwith with City Union Bank Blank Cheque Leaf



W.P.No.18246 of 2020

Nos.000004 & 000008 having the signatures of the 1st and 4th petitioners by bringing an end to the stalemate caused to the livelihood of the petitioners by the 6th respondent.

For Petitioners : Mr.A.Amalraj

For Respondents : Mr.B.Rabu Manohar for R1 to R4
Mr.S.Thankasivan for R6
No appearance for R5

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus, to direct the respondents 1 to 4 to initiate action against the 6th respondent / Institution duly considering the petitioners' Appeal by way of joint mail dated 09.10.2020, direct the 6th respondent to return forthwith the petitioners' original B.E & M.E Degree Certificates, the salary arrears of each, the last paid rate as mentioned at paragraph - 3 from March 2020 to up to date of handing over the original certificates together with interest at the rate of 12% per annum, besides the pay weightage as per VI pay commission recommendations, gratuity and other allowances together with damages at the rate of Rs.5,00,000/- each apart from retuning forthwith with City Union Bank Blank Cheque Leaf Nos.000004 & 000008 having the signatures of the 1st and 4th



W.P.No.18246 of 2020

petitioners by bringing an end to the stalemate caused to the livelihood of the petitioners by the 6th respondent.

2. Heard Mr.A.Amalraj, learned counsel for the petitioners, Mr.B.Rabu Manohar, learned counsel for R1 to R4 and Mr.S.Thankasivan, learned counsel for R6.

3. The petitioners have been employed as Assistant Professors at the Automobile Engineering Department attached with the sixth respondent College. From March 2020 onwards they were not paid with salary and their services have been abruptly terminated without any notice. Further the 6th respondent College also refused to return back their degree certificates and hence it is not possible for the petitioners to seek some other employment for eking out their livelihood. Hence the petitioners have come out with this Writ Petition seeking directions against the respondents 1 to 4 to initiate action against the sixth respondent and direct the sixth respondent to return the petitioners' degree certificates and disburse salary arrears to them from the month of



W.P.No.18246 of 2020

March 2020 upto the date of handing over the said certificates together with interest at the rate of 12%.

4. The learned counsel for the petitioners submitted that the petitioners were seriously co-operating with the 6th respondent Institution by attending the College even during Covid-19 pandemic. However the 6th respondent stopped paying salary dues of the petitioners on the pretext that the College did not collect any fees from the students during Covid-19 period. He further submitted that as per AICTE letter dated 29.03.2019, all Technical Institutions are directed to comply the guidelines of AICTE and Educational Institutions shall not retain the original certificates of the individuals and that they should be given with one month notice if the faculty leaves the job in the mid-session keeping in view the academic interest of the students.

5. It is further submitted by the learned counsel for the petitioners that on 15.04.2020 during Covid -19 lock down 2.0 further instructions have been issued to the institutions by AICTE under which it has been



W.P.No.18246 of 2020

stated that the salary dues to the faculty members should be released for the duration of the lock down and any termination made during this period should also be withdrawn. However the sixth respondent Institution created compelling situation for the petitioners to resign their job. As the petitioners did not have any job and the sixth respondent also failed to pay the monthly salary due to them and withheld the certificates of the petitioners, they were not able to seek any other employment and hence the petitioners are eligible to get the arrears of salary from the month of March 2020 till the day during which the educational certificates are returned to them.

6. The learned counsel for the sixth respondent submitted that the degree certificates of the petitioners have already been returned and they are not lying at the hands of the sixth respondent. He further submitted that they sought No Objection Certificate from AICTE for closing the Automobile Department. Accordingly, No Objection Certificate has been issued on 29.02.2020 for closing the Automobile Department. However, the sixth respondent Management had paid 50% of salary as per the



W.P.No.18246 of 2020

guidelines issued by the Supreme Court and also in partial compliance of AICTE guidelines. However no payment of that sort can be made to the petitioners. Because under the head of the first petitioner all the petitioners clandestinely collected several lakhs of fee arrears from larger number of students from the month of January 2020 without the knowledge of the Management. As the College was closed, there was no occasion for the Management to verify with the students as to the fact of collection of illegal fee and on coming to know about the illegality committed by the petitioners, a police complaint has been given in this regard and the same is pending.

7. However, the learned counsel for the petitioners submitted that the police complaint has been given subsequent to the filing of the Writ Petition and the petitioners were given with duty of collecting fees from the students and whenever fees were collected, the petitioners were in the habit of making due remittance to the College Account. The learned counsel for the petitioners drew the attention of this Court to some of the receipts attached to the additional typed set of papers and claimed that



W.P.No.18246 of 2020

the amounts collected from the students have been remitted and for which, the Chairman of College has also given due receipts.

8. But the very allegation of the sixth respondent is that many of the collections so made by the petitioners were not remitted to the College and the same cannot be found in view of the Covid - 19 lock down. Even the receipts produced by the petitioners does not reflect the details of the collection of fee with the names of the students and other details. Since the classes were taken online during Covid-19, students were said to have been gone to the houses of the petitioners and remitted their fees directly. This Court is at loss to understand why the students did not go to the College itself to remit the fees instead of going to the individual staff member's houses. The Automobile Department itself has come to a closure on 29.02.2020. However, typed set of papers furnished by the petitioners would show that the petitioners continued to collect fees for August 2020 also. In fact in some of the receipts it is stated that the amounts have been paid in College Office. Unless the petitioners subject themselves to a detailed enquiry as to the collection of fees and its



W.P.No.18246 of 2020

remittance and accountable for the amounts collected by them, the petitioners' claim cannot be considered. So far as the return of certificates are concerned, it has been readily given to them.

9. However, the learned counsel for the petitioners submitted that only after collecting the blank cheque from the petitioners, the original certificates have been handed over to them. These matters are extraneous to the litigations that has arisen in this Writ Petition. However, the respondents will be held liable if the sixth respondent had collected any blank cheque, at the time of handing over the certificates to the petitioners. But, without participating in the enquiry process and showing accounts for all those fees collected by the petitioners, they cannot expect any further payment to them by the sixth respondent. If the petitioners successfully render the accounts for whatever fee collected by them and the same are cross-checked with the students, the sixth respondent cannot withhold any further payment due to the petitioners.



W.P.No.18246 of 2020

10. With these observations, this Writ Petition is disposed and the sixth respondent is directed to complete the enquiry process within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

07.12.2023

Index : Yes

Internet : Yes/No

gsk



W.P.No.18246 of 2020

To
WEB COPY

- 1.The Chairman,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj, New Delhi 110 070.
- 2.The Registrar,
Centre for Affiliation of Institutions,
Anna University, Chennai 600 025.
- 3.The Director of Technical Education,
Directorate of Technical Education,
Guindy, Chennai 600 025.
- 4.The Regional Director,
Southern Regional Office,
All India Council for Technical Education,
'Shastri Bhavan' No.26, Haddows Road,
Nungambakkam, Chennai 600 006.
- 5.The Additional Central Provident Fund Commissioner,
Employees Provident Fund Regional Office,
No.37, Opposite to Swagat Hotel, Royapetta High Road,
Chennai 600 014.
- 6.The Chairman,
Ponjesly College of Engineering,
Nagercoil - 629 003, Kanniyakumari District.



WEB COPY



W.P.No.18246 of 2020

R.N.MANJULA, J.

gsk

W.P.No.18246 of 2020 and
W.M.P.No.22634 of 2020

07.12.2023