



C.R.P.(MD).No.2424 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 20.02.2023

DELIVERED ON: 09.03.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD).No.2424 of 2022

and

C.M.P(MD).No.11733 of 2022

The Principal
Vivekananda College
Agateeswaram
Kanyakumari District

...Petitioner

Vs

1.Sathiya Moorthy

2.Mr.Chandran
Professor
Vivekananda College
Agasteeswaram
Kanyakumari District

3.The Controller of Examinations
Manonmaniam Sundaranar University
Tirunelveli

...Respondents

PRAYER: The Civil Revision Petition has been filed under Article 227 of Constitution of India, to call for the records pertaining to the award dated



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28.10.2022 passed in P.L.A.Case No.144 of 2022 on the file of Permanent Lok Adalat, Tirunelveli and set aside the same.

For Petitioner : Mr.M.Arjunvarman
For R1 : Mr.S.Vellai Chamy
For R2 : No Appearance
For R3 : Mr.Mahaboob Athiff

ORDER

The present revision petition has been filed by the first respondent in a Permanent Lok-Adalat Case No.144 of 2022 that was decided in Permanent Lak-Adalat on 28.10.2022.

2.The first respondent in the revision petition had initiated proceedings before the Permanent Lok-Adalat, Tirunelveli for a direction to the Manonmaniam Sundaranar University to release the certificates and for a further prayer as against the College to make amendments in the transfer certificate.

3.According to the learned counsel for the first respondent, his son had joined B.Sc.Chemistry in the petitioner College for the academic



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year 2017-2018. He had to complete the course in the academic year 2019-2020. Though the student had secured good marks in the first two years up to the 4th Semester, the College administration due to some personal animosity had not permitted the student to attend the 5th Semester Examination and the 6th Semester Examination which were due in the academic year 2019-2020. The College administration has issued a transfer certificate to the candidate with a remark that he had discontinued his course. The 5th and 6th Semester results of the student was withheld and therefore, the student were requested for releasing the result and issue a degree certificate.

4.The Controller of Examination of Manonmaniam Sundaranar University had filed a counter to the effect that the student had lacked attendance in the 5th Semester Examination and he had not even paid the tuition fee for the 6th Semester Examination. Since the student had not completed the course, naturally the College administration had issued a transfer certificate with an endorsement 'discontinued'.



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5.The Permanent Lok-Adalat has passed an award directing the College Management and the University to permit the student to appear for the 5th Semester Examination as an arrear examination. The Lok-Adalat had further directed the University to publish the 6th Semester Examination result and issued a fresh transfer certificate without incorporating the word 'discontinued'. This order is under challenge in the present civil revision petition.

6.According to the learned counsel appearing for the revision petitioner, though the Permanent Lok-Adalath is empowered to pass orders on merits, the order could be passed only within the four corners of law. Where the students lacked attendance, the question of directing the University to permit the students to appear for examination would be clearly outside the scope of the powers of Permanent Lok-Adalat. He had further contended that the candidate had not even paid the fee for the 6th Semester Examination. Due to pandemic, the College was conducting on-line classes. The student had attended the said on-line classes for just 64 days and he attempted to write the examination. Since the exam application was received through on-line during pandemic, the candidate



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had also applied for the examination and he had appeared in the examination. In view of lack of attendance, the result of candidate was withheld. Therefore, withholding of the 6th Semester result is as per the University Statute. As far as the 5th Semester Examinations are concerned, the candidate lacked attendance and hence, he was not permitted to appear for the examination. The Permanent Lok-Adalat has no power to pass orders which are contrary to the University Statute. Therefore, he prayed for allowing the revision petition.

7.Per contra, the learned counsel for the student/candidate had contended that up to 4th Semester, he had secured very high marks. Only in the 5th and 6th Semesters, some dispute arose with the College administration and hence, he was not able to attend the classes in the 5th Semester. As far as the 6th Semester is concerned, he had attended on-line classes and he had also appeared for the examination. Therefore, the contention of the College Management and the University that the candidate lacked attendance in the 6th Semester is not legally sustainable. Hence, he prayed for dismissing the revision petition.



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8.I have considered the submissions made on either side and perused the materials available on record.

9.It is an admitted fact that the petitioner has joined B.Sc., Chemistry in the academic year 2017-2018 in the petitioner College. He had completed the first four Semesters without any dispute. When he was in the 5th Semester, he lacked attendance and he had not made any application for appearing in the examination. Therefore, he was not permitted to appear for the 5th Semester Examination by the University. As far as the 6th Semester is concerned, the student has not even paid the tuition fee or joined the said 6th Semester.

10.The 6th Semester was conducted between 05.12.2019 and 24.03.2020. Last few days of the 6th Semester was conducted through on-line. Due to pandemic, the candidates were requested to apply for the examination through on-line. The student had also applied through on-line for all the papers in the 6th Semester and he had also appeared in all the examinations. However, the University later found out that the student lacked attendance for the 6th Semester also and withheld the result.



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Thereafter, the College Management had issued transfer certificate with an endorsement that student had discontinued the course.

11.The above said facts would clearly indicate that the student lacked attendance both in the 5th Semester as well as in the 6th Semester in the academic year 2019-2020. Taking advantage of the on-line exam application form, the petitioner had applied for the examination and has also appeared for all the papers. The University Statute does not permit the condonation of lack of attendance beyond certain extent. Admittedly, the student was lacking in attendance which is beyond the condonable limit. In fact, the student has not even paid the exam fee for the 5th Semester Examination and tuition fee for the 6th Semester. Though the Permanent Lok-Adalat is empowered to adjudicate the matter where the conciliation has failed and pass orders on merits, the order cannot be in violation of the statutory provisions. In the present case, the University Statute do not permit the student with less attendance to appear for the examinations. Therefore, the Lok-Adalat cannot pass an award in violation of the said statutory provision directing the University and the College Management to permit the student to appear in the 5th Semester Examination as an arrear



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examination and also to publish the result of the 6th Semester Examination.

The College Management was right in issuing a transfer certificate that the petitioner had discontinued his course.

12.In view of the above said deliberations, the order impugned in the revision petition is set aside and the revision petition stands allowed. The petitioner College is directed to return all the original certificates of the student so that he can join the 5th Semester and 6th Semester of B.Sc., Chemistry course in some other College. No costs. Consequently, connected miscellaneous petition is closed.

09.03.2023

Index : Yes/No
Internet : Yes/No
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To

The Additional District Munsif,
Madurai Town



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R.VIJAYAKUMAR, J

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Pre-delivery order made
in
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