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W.A. No.1235 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 21.08.2024

DELIVERED ON: 19.10.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.1235 of 2024

and C.M.P.Nos.17038, 9090 & 9097 of 2024

Shivanesan A.S

.. Appellant

Vs

1.The Registrar,
Anna University,
Chennai – 600 025.

2.The Additional Controller of Examinations,
Anna University, Chennai – 600 025.

3.The Dean,
College of Engineering,
Guindy, Chennai -25.

..Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 27.03.2024 made in the W.P. No.36542 of 2023 and thereby allow the Writ Petition.



W.A. No.1235 of 2024

For Appellant : Mr.S.R.Rajagopal,
Senior Counsel,
for Mr.L.P.Shanmugasundaram

For Respondents : Mr.U.Baranidharan,
Standing Counsel

J U D G M E N T

(Judgment of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The writ petitioner, aggrieved by the order of the Writ Court, dismissing the Writ Petition in W.P. No.36542 of 2023 dated 27.03.2024 has preferred the present Writ Petition.

2. We have heard Mr.S.R.Rajagopal, learned Senior Counsel, appearing for Ms.L.P.Shanmuga Sundaram, learned counsel for the Appellant and Mr.U.Bharanidharan, learned Standing Counsel for the Respondents.

3. The learned Senior Counsel, Mr.S.R.Rajagopal, would contend that the Appellant completed his course in B.E., (Bachelor of Engineering) between 2019 and 2023 from St. Joseph's Institute of Technology, Chennai and that he was also chosen at the campus interview by a multinational Company. However, in order to pursue higher studies,



W.A. No.1235 of 2024

namely M.E., (Master of Engineering) in Power Systems, the Appellant declined the campus offer and applied for the Post Graduate (PG) Course.

According to the learned Senior Counsel as per the notification of Anna University for admission, the student had to pass in all the subjects upto to pre-final year and the Appellant was also required to submit all original mark sheets for all semesters up to that relevant point of time. According to the learned Senior Counsel, the Appellant had complied with the said requirement and also secured 75.172% in the pre-qualifying CEETA examination. Based on the above, the Appellant was given a provisional allotment order and subsequently, after payment of the full semester fee, the Appellant was admitted to the PG course and he also started attending college.

4. According to the learned Senior Counsel, the Appellant was allowed to attend college from August 2023 and he had maintained sufficient attendance as well. As the first semester PG admissions were scheduled to be held in December 2023 and the Appellant had an arrear in one subject, namely “High Voltage Direct Current Transmission”, he was called upon to give an undertaking to clear the said arrear and the Appellant also gave the undertaking as required by the Anna University.



W.A. No.1235 of 2024

WEB COPY

5. The learned Senior Counsel would further submit that the appellant had joined the PG course on 12.07.2023 after payment of the prescribed fees and the university verified all the documents of the appellant and allowed the appellant to even undertake practical examinations and during the subsistence of the first semester, the appellant had also cleared the arrear subject and had become fully qualified in December 2023.

6. According to the learned Senior Counsel, the Appellant was not in a position to obtain the result of his arrear subject because of the cyclone and heavy rains that affected the entire city of Chennai around that time and the Appellant was able to submit the certificate to the University only on 23.12.2023. As the Appellant had not produced the results within the time prescribed, the University refused to permit the Appellant to sit for the first semester PG Exam scheduled on 28.12.2023, though the Appellant was allowed to take his practical exams earlier and was also issued a Hall Ticket.

7. Aggrieved by the said refusal of the respondents to permit the Appellant to sit for the first semester PG Examination, the Appellant



W.A. No.1235 of 2024

filed Writ Petition in W.P.No.36542 of 2023. The Writ Court passed an interim order in W.M.P.Nos.36527 to 36529 of 2023 on 28.12.2023 permitting the Appellant to appear for first semester examination. Subsequently, the Writ Court dismissed the Writ Petition itself on 27.3.2024.

8. According to the learned Senior Counsel, Mr.S.R.Rajagopal, the respondents themselves have notified on 20.12.2023 that only owing to non-submission of the original certificates one month prior to the first semester examination, the petitioner was not allow to take the examination and now the respondents cannot turn around and contend that the admission itself is liable to be recalled. He would further submit that in the light of the undertaking letter obtained from the Appellant regarding the arrears, the respondents cannot now seek to cancel the admission itself when the provisional allotment order only required the Appellant to pass all subjects up to pre-final year and based on CEETA Examination results, the Appellant was found eligible for pursuing the PG course. The learned senior counsel would submit that the respondents have not been able to show any material that the Appellant had suppressed or misrepresented any facts and in such view of the matter, the respondents were estopped from now contending that the admission itself is required to be cancelled.



W.A. No.1235 of 2024

WEB COPY

9. He would place reliance on the decision of the Hon'ble Supreme Court in the case of *Mohinder Singh Gill vs The Chief Election Commissioner and others* reported in (1978) 1 SCC 405, where the Hon'ble Supreme Court held that when a statutory functionary passes an order based on certain grounds, then the validity of such order should be judged only by the reasons mentioned and cannot be supplemented by fresh reasons. The learned Senior Counsel would therefore pray for the order of the Writ Court being set aside and directions being issued to the respondents to permit the Appellant to pursue the PG course.

10. Per Contra, the learned Standing Counsel Mr.U.Bharanidharan, appearing for the respondents would submit that the Appellant, even when he was doing his final year B.E., submitted an Application for attending CEETA Examination and admittedly the Appellant cleared CEETA Examination and in April 2023, the Appellant had taken his final semester of UG course, the results of which were declared only on 20th April, 2023. Further he would submit that even according to the Appellant, the Appellant had failed to clear one paper in his final semester of the UG course which was not disclosed to the respondents



W.A. No.1235 of 2024

while securing admission for the PG course. Therefore, according to the learned Standing Counsel for the Respondents, the Appellant had misrepresented rather suppressed the fact that he had not cleared one paper in the final semester of the UG course itself.

11. The learned counsel for the respondents would further submit that not knowing that the Appellant had failed to clear a paper in his final semester of UG course, the Appellant was issued a provisional admission and as he was a student of 2023 UG course, he was required to submit only the original mark sheets upto the pre-final year of the UG course, that is, upto the 6th semester. The said requirement was complied with by the Appellant, however, since the Appellant had two arrears in his 6th semester, namely “Design of Electrical Apparatus” and “Special Electrical Machines”, the Appellant had informed the respondents at the time of securing provisional admission for the PG course that results were not declared by the college and that he would submit the original mark sheets and also the consolidated mark sheets as soon as results are declared. In this regard alone, the Appellant was called upon to give an undertaking, which was duly given by him on 12.07.2023.



W.A. No.1235 of 2024

12. According to the learned counsel for the Respondents, the

Respondent University was only under the impression that the undertaking was only in respect of the two arrears in the 6th semester, the results of which would be declared along with the 7th semester. The learned counsel would further submit that the undertaking given by the Appellant is in suppression of the arrear in the 8th semester, about which the Respondent University was never put on notice. In any event, the original mark sheet for the 7th and 8th semester had been received by the Appellant as early as on 10.07.2023 and 11.07.2023 after the results were declared on 20.04.2023. All these dates were prior to the Appellant securing provisional admission in the PG course and wantonly the Appellant has not produced the original mark sheets of the 7th and 8th semester only because of the fact that, his failure to clear one paper in the 8th semester would come to light and he would become ineligible for even securing the admission in the PG course.

13. The learned counsel would submit that since classes for the ME course started on 23.08.2023, the Respondents sent an email in September 2023 to all students including the Appellant to submit the certificates which were not submitted at the time of securing admission. He would further submit that excepting the Appellant, all the other students had



W.A. No.1235 of 2024

submitted their mark sheets in original before the 1st semester PG examination and they were allowed to pursue the PG course. He would further submit that the concession to submit the final semester mark sheet before the 1st semester PG exam was only in the interest of the students and this concession has never been misused by any student earlier. The object of such exception was only because of the fact that there were several Autonomous Institutions across the state having their own Rules and Regulations insofar as conduct of Examinations and publication of results are concerned and therefore, any delay in publication of such results or issuance of mark sheets should not affect the career of students who wish to pursue Higher Studies or Higher Education.

14. Unfortunately, according to the learned counsel for the respondents, the Appellant has misused the said concession shown by the Respondent University and suppressing the fact that he had an arrear in the final semester, for which he admittedly appeared in the month of November 2023 only. The learned counsel would submit that the last date for submission of the original mark sheet of 7th and 8th semester of UG course was the last working day of 1st semester of the PG course, that is 19.12.2023. On the very next day, the Respondents University issued a



W.A. No.1235 of 2024

circular in letter number CEG/PG/2023 dated 20.12.2023 informing the students who were not permitted to appear for the 1st semester PG examination commencing from 28.12.2023.

15. The learned counsel would submit that the result of the arrear examination of the Appellant for the final semester was itself declared only on 21.12.2023 by St. Joseph's University and therefore, the Appellant can be said to have secured a pass in his Under Graduate course only on 21.12.2023 and as on the date of securing admission in the PG course, he was ineligible for admission. He would further submit that the Appellant had submitted the mark sheet only on 23.12.2023 when the 1st semester examination itself was scheduled on 28.12.2023 and therefore, the Respondent rightly did not permit the Appellant to appear for the examination as he was disqualified for not having completed the UG at the time of provisional allotment.

16. We have carefully considered the rival submissions advanced by the learned counsel on either side.

17. It is clearly an unfortunate scenario where the Rules and Regulations of the Respondent University have led to this precarious



W.A. No.1235 of 2024

situation of a student having been admitted to a Post Graduate course, without even having cleared all the requisite papers in the Under Graduate course. The Appellant had originally joined the Bachelor of Engineering course at St.Joseph's Institute of Technology, Chennai (2019-2023). In terms of the admission procedure of the Respondents, the Appellant was eligible to apply for PG course subject to requiring a pass in all subjects up to pre-final year and submission of original mark sheets for all such semesters up to that point. That apart, the results of the CEETA Examination would also be taken note of.

18. The Appellant was given a Provisional Allotment Order for M.E course. One of the conditions for such provisional allotment under note VII reads as follows:

“Candidates who have passed the UG Degree programme in 2022 or prior to 2022 should produce the Original Degree Certificate/Provisional Certificate & Consolidated Mark Sheet/Mark Sheets of all the semesters at the time of Admission. However, those candidate appearing for April/May 2023 University Examinations should have passed all the subjects upto the pre-final year and the candidates should produce the original Mark sheets for all the semesters upto the pre-final year for securing Provisional Admission. They should produce Original Degree, Provisional Certificate and Consolidated Mark sheet/Mark sheets for all semesters at least one month before the date of Commencement of the first semester PG examinations. If they fail to do so, the Provisional admission automatically stands cancelled. Such candidates shall be asked to discontinue the programme”



W.A. No.1235 of 2024

WEB COPY

19. Thus, it is clear that the Respondents have permitted the Appellant to pursue the PG course even without requiring the 7th and 8th semesters i.e., final year results/marksheets to be placed on record. The requirement of the Respondents is that the original degree/provisional certificate along with a consolidated mark sheet/mark sheets for all semesters should be produced at least one month before the date of commencement of the first semester PG admissions. It is also made clear that in the event of failing to comply with the same, the provisional admission would stand automatically cancelled.

20. Thus, it can be seen that the Appellant has been provisionally admitted and only on satisfaction of the requirement of production of the original degree/provisional certificate for the UG course and consolidated mark sheet/mark sheets for all semesters which was required to be submitted at least one month before the commencement of the first semester PG Examinations, the provisional admission would be regularized or made permanent. In the event of the student not complying with the conditions set out herein above, it has been made clear that he would be asked to discontinue the program.



W.A. No.1235 of 2024

WEB COPY

21. It is also not in dispute that the Appellant was allowed to undertake all his practical examinations for the first semester PG course and he has also paid the prescribed fees. It is also not in dispute that only in December 2023, the Appellant had cleared the arrear which he had in the final semester and the said mark sheet was produced to the respondents few days prior to the commencement of the first semester PG examination.

22. Much has been argued about the undertaking affidavit filed by the Appellant. As the said undertaking affidavit assumes significance in the context of the present facts and circumstances, we deem it fit to extract the same:

**“UNDERTAKING FOR STUDENTS HAVING
ARREARS**

This is to inform that I could not submit my consolidated marksheet of all the semesters from the competent authority or Provisional Certificate or Degree Certificate from the university studied since my results are not declared.

I undertake to submit consolidated mark-sheet or provisional certificate or degree certificate before the last working day for the M.E / M.Tech / M.Arch / M.Plan (1st Semester) Classes without fail for verification else my admission for the course shall be cancelled.”

23. This undertaking was given by the Appellant on 12.07.2023.

It was also countersigned by his parents on the same day. Though the



W.A. No.1235 of 2024

heading is titled as 'UNDERTAKING FOR STUDENTS HAVING ARREARS', it is seen from the body of the affidavit that the Appellant has not been able to submit a consolidated mark sheet for all semesters or a provisional certificate or degree certificate from the University where he studied because his results have not been declared and in such view of the matter, he has undertaken to submit the consolidated mark sheets or provisional certificate or degree certificate before the last working day of the M.E., course (first semester classes) without fail for purposes of verification and also making it clear that failure to do so would entail cancellation of his admission itself.

24. Placing reliance on the said undertaking given by the appellant, the learned Senior Counsel Mr.S.R.Rajagopal would submit that the respondents were therefore aware of the fact that the petitioner was in arrears. On the very date of admission that is 12.07.2023, the appellant has also given an undertaking to produce UG semester marksheets for semester 7 and 8 on or before 12.08.2023. It is seen from the grade sheets issued by St.Joseph's University dated 11.01.2024 that the appellant has taken the arrear examination in November 2023 and the results were published on 31.12.2023 and the Appellant has secured a pass mark in "High Voltage



W.A. No.1235 of 2024

Direct Current Transmission”, that is the subject in which he had an arrear in the final semester.

25. From the above it is clear that the Appellant has not brought it to the notice of the Respondent university that he was actually in arrears insofar as one subject of the final semester was concerned. When admittedly the petitioner had not cleared one subject and was in arrears and had taken up the arrear examination only in November 2023, on the date of his giving the undertaking, he ought to have disclosed to the Respondent University that he had not qualified for being issued a degree in view of arrears in one paper. Unfortunately, based on the undertaking to provide final year semester mark sheets on 12.08.2023, the Appellant has been given provisional admission and he has also been allowed to take the practical examinations. However, when it came to submission of the original documents, that is the mark sheets concerned before the cut-off date, as the Appellant was not in a position to produce the same, the respondent University did not permit him to undergo the Examination.

26. It cannot be disputed that the very qualification or eligibility for securing an admission for PG course like M.E., would require



W.A. No.1235 of 2024

a pass in a recognized Bachelor's Degree. Merely because the Appellant being a final year student was allowed to apply and appear in an Entrance examination and was provisionally admitted to the PG course, when the candidate had not cleared one paper in the UG course and was consequently ineligible for being issued a degree in B.E., he was certainly not eligible for admission to Post Graduate course. The appellant has clearly taken advantage of the lacuna in the admission procedure of the Respondents by giving an undertaking as if results have not been declared and that the Appellant would produce the mark sheets within one month from the said date of undertaking. When admittedly the appellant had an arrear in one subject on the date of his admission to the PG course, he was clearly ineligible for admission.

27. However, for the reasons already recorded herein above and the lapses on the part of the Respondent university in not correctly phrasing the nomenclature of the Undertaking Affidavit and also providing for final year students of UG course to apply for PG, the appellant has taken advantage of the same and has suppressed the fact that he had an arrear in the 8th semester.



W.A. No.1235 of 2024

28. It is also seen that the Appellant was issued with 7th and 8th semester original mark sheets by his college even in 10th and 11th of July, 2023. However, mischievously the Appellant has not produced the same on 12.07.2023, when he was issued a provisional admission and has got away giving an undertaking that he would produce the mark sheets within a month. In fact, even in the mark sheet produced for 6th semester, the appellant had arrears in two papers and since the results were not declared after the appellant had taken the Examinations in respect of said two papers alone, the undertaking appears to have been taken from him on 12.07.2023. Now, the appellant is trying to take advantage of the said undertaking as if it referred to his arrear in the 8th semester as well. By no stretch of imagination, such an explanation can be accepted.

29. The basic eligibility for securing an admission to PG course is a pass in the qualifying degree that is B.E. In the instant case, if at all the Appellant had disclosed the fact that he had not cleared one paper in the 8th semester, the Respondents University would not have even ventured to give a provisional admission to the Appellant in the first place.



W.A. No.1235 of 2024

30. Pending the Writ Petition, the appellant was permitted to appear for the first semester PG Examination. However, the Writ Court directed that results of such Examinations would not be declared and it would be subject to the result of the Writ Petition ultimately.

31. The learned Single Judge has taken up the Writ Petition for final hearing on 27.03.2024 and the Writ Court has taken note of the fact that results in respect of the arrear examination for the final semester was declared only on 23.12.2023 and published on 31.12.2023. The said procedure would not take away the basic criteria viz., completion of UG course with pass mark in all subjects for being eligible to pursue the PG course namely Master Course.

32. The Writ Court has also taken note of the fact that the petitioner was not allowed to write the examination only on the ground that the certificates were not produced in time. However, the Writ Court has also considered the larger question as to the correctness of the provisional allotment order itself when the candidate had not passed the examinations at the relevant date and found it to be contrary to the Notification. The decision in ***Mohinder Singh Gill*** (referred herein supra) which has been



W.A. No.1235 of 2024

relied on by the learned Senior Counsel for the Appellant was also placed before the Writ Court and the Writ Court has referred to paragraph 14 of the counter affidavit filed by the respondents and held that when the pre-condition under the Entrance notification itself had not been satisfied, the very admission of the appellant to the PG course stood vitiated and proceeded to dismiss the Writ Petition.

33. We are in agreement with the findings of the Writ Court. For pursuing the PG course, the fundamental requirement for a candidate is to have cleared all the papers in the UG course. No doubt, concession has been shown to students because of various Autonomous Universities providing B.E. courses and such Universities having their own set of Rules and Regulations with respect to the admissions, examinations as well as publication of results and only in this context, to avoid any inconvenience to the students, the notification provides for late submission of the final year mark sheets alone. However, the instant case, the appellant was fully conscious of the fact that he had not cleared one paper in the final semester Examination. He ought to have voluntarily disclosed the same to the Respondents and if done so, the Respondents would not have even ventured to provide a provisional admission to him, as it goes against the very letter



W.A. No.1235 of 2024

in spirit to the Notification requiring a pass in all the subjects in the B.E., course. The appellant has clearly taken advantage of the relaxation provided by the respondents and taking advantage of the nomenclature of the undertaking affidavit it is not open to the Appellant to state that he had disclosed the fact that he had an arrear in the final semester. There is no material placed on record by the appellant to substantiate the said contention that the Respondent University was put on notice about the arrear in one paper in the final semester Examination. Therefore, we do not find any justifiable grounds to interfere with the order passed by the Writ Court.

34. Before parting, we would like to issue a note of caution to the University. Though concessions and relaxations are being shown in the interest of students, when there is scope for misuse of such relaxation or concession shown by the University, as in the present case, it leads to very unpleasant consequences, especially allowing a student to pursue a course, in some cases even write examinations and thereafter, question the very admission of the said student itself. It is therefore for the Respondents to have a re-look at their admission procedures and come out with more water tight Rules and Regulations to ensure that cases of this nature do not occur again.



W.A. No.1235 of 2024

35. In this regard, the Registrar of the respondent University has

also filed an affidavit wherein it is stated as follows:

“I stated that if this Hon'ble Court direct the respondents to revise the condition i.e. They should produce the Original Degree/Provisional Certificate and Consolidated Mark Sheet/ Mark Sheets for all semester at least one month before the date of commencement of the first semester PG examinations, the respondents are ready and willing to submit a proposal to modify the said conditions to submit the declaration of final semester results before the provisional allotment.”

In order to ensure, in future, there is no misuse of the concession shown by the University, it is in the interest of all parties concerned that the respondent University revises its conditions requiring submission of declaration of final semester results even before provisional admission/allotment.

36. Though we have found that the appellant is not entitled to any relief, at the same time, the respondent/University also should be faulted for the lacuna in the admission procedure which has alone resulted in the present litigation. If at all the respondents had insisted upon the production



W.A. No.1235 of 2024

of certificates before admitting the student, this unfortunate situation would not have arisen. Only in view of the faulty procedure adopted by the respondent/University, the appellant has been given room to take advantage of the same and he was also permitted to undergo one year of the Post Graduate course. We therefore deem it fit, in the circumstances of the present case, to direct the respondent/University to refund the entire fees collected from the appellant, together with interest at 6% per annum from the date of payment of fees by the writ petitioner. This payment shall be made within a four weeks from the date of receipt of a copy of this judgment.

37.In fine, the Writ Appeal stands dismissed with the above direction. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are also stand closed.

(D.K.K.J.,) (P.B.B.J.,)

19.10.2024

Index : Yes/No
Speaking Order/Non Speaking Order
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W.A. No.1235 of 2024

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WEB COPY

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W.A. No.1235 of 2024

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Pre-delivery Judgment in

W.A.No.1235 of 2024

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