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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.03.2024

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.36542 of 2023
and WMP.Nos.36525, 36527 & 36529 of 2023

Shivanesan A.S.

... Petitioner

VS

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

2.The Additional Controller of Examinations,
Anna University,
Chennai – 600025.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent university in his proceedings Official communication letter No.CEG/PG/2023 dated 20.12.2023 circulated by the 3rd respondent and to quash the same as being illegal and unsustainable in law and for a consequential direction to the respondent university to permit the petitioner to attend/write his



December 2023 examinations (Six papers) which is to be scheduled from 28.12.2023.

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For Petitioner : Mr.L.P.Shanmugasundaram

For Respondents : Mr.U.Bharanidharan
Additional Government Pleader

ORDER

The petitioner has challenged letter bearing No.CEG/PG/2023 dated 20.12.2023 issued by the Dean, College of Engineering/R3.

2. The petitioner had enrolled for admission to a degree in Electrical and Electronics Engineering in the St.Joseph Institute of Technology, Chennai (College) in 2019. In 2022, the college became autonomous and was affiliated to the Anna University/R1. In the 4th year, the petitioner appeared for the final examinations in April, 2023. He was unsuccessful in the paper on *High Voltage Direct Current Transmission course examination* (code – EE8017). As a result, he did not clear the 4th year and had an arrear.

3. The petitioner had, even prior to the conduct of examinations, applied for entrance to the Post-Graduate engineering course on 28.02.2023 and was issued an allotment order on 12.07.2023. On the same date, the petitioner executed an undertaking in the following format:-

'UNDERTAKING FOR STUDENTS HAVING ARREARS



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This is to inform that I could not submit my consolidated mark-sheet 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.'

4. Though the undertaking is addressed to those students having arrears, the reference to arrears is clearly in relation to the examinations for the semesters prior to the year in which admission has been sought. To clarify, it is expected that at the time of seeking admission, the candidate would have no arrears for the initial 3 years of the course and any arrears ought to have been cleared prior to the date of provisional allotment.

5. The mark-sheet of the petitioner for the examination written by him in April 2023 is dated 11.07.2023, a day prior to the execution of the Undertaking as above. However, it is the case of the learned counsel for the petitioner that the mark-sheet was obtained only thereafter and had not been available when the provisional allotment order was issued.

6. Classes commenced for the PG course for academic year 2023 – 2024 and the petitioner has been permitted to attend. The mark-sheets for the 7th and 8th semester, that is the 4th year of the course, and the proof for the completion of



the UG Programme for those semesters, had not been issued when the provisional allotment order for admission was given. The petitioner had sat for the *High Voltage Direct Current Transmission* paper in December 2023 and was successful in the supplementary examination. Thus, though the petitioner had passed in the final year, the success was only in the supplementary examination conducted in December, 2023.

7. According to the petitioner, the results were declared on 23.12.2023 and time was thereafter extended till 18.01.2024 to the candidates to present the results. Though there appears to be some discrepancy in relation to the deadlines for submission of the original certificates, in the considered view of the Court, the extension of time granted by R3 for submission of certificates would be of no use to the petition as only the mark-sheets of the supplementary course where he was successful were supplied then. The fact remains that, the petitioner, as on the date of the provisional allotment order, has been unsuccessful in the final examinations.

8. Notification issued for the Tamil Nadu Common Entrance Test (TANCET 2023)/Common Engineering Entrance Test and Admissions (CEETA-PG-2023) for academic year 2023 – 2024 stipulates the eligibility for M.E. / M.Tech. / M.Arch. / M.Plan. courses and reads as follows:-



3	<i>M.E. / M.Tech. / M.Arch.+ / M.Plan.+</i>	<i>(a) A pass in a recognised Bachelor's Degree or equivalent in the relevant field and obtained at least 50% (45% in the case of BC, BCM, MBC, SC, SCA and ST candidates belonging to Tamilnadu) in the qualifying degree examination. (i) B.E./ B.Tech. / B.Arch. Degree Programmes (or) (ii) B.Pharm. Degree Programmes (or) (iii) Master's Degree in the relevant branch of Science / Arts, which are prescribed. (b) (i) 10 + 2 + AMIE* (or) (ii) 10 + 3 years diploma (awarded by the State Board of Technical Education) + AMIE.*</i>
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9. The criteria for eligibility for PG is the completion of UG course with a pass mark in all subjects. This is a pre-requisite for admission to the Masters course. This writ petition was moved during the vacation in December, 2023 and by order dated 28.12.2023, the vacation judge has permitted the petitioner to write the first semester PG examinations. It was made clear that the results of the examinations would not be declared. The examination, and the result thereof was itself made subject to the result of this writ petition.



10. The learned judge has proceeded on a plain reading of the impugned order which only restricts the petitioner from writing the end-semester examinations as he had not submitted the requisite certificates. The learned judge finds the delay of four days in the submission of the certificate (in fact the certificates were produced only on 18.01.2024 and not on 23.12.2023), condonable.

11. It is true that the impugned order has placed a restriction only on the ground that the petitioner had not submitted the certificates in time. However, the larger question is as to whether the provisional allotment order that has been issued to the candidate is itself correct seeing as the candidate had not passed the final examinations as on that date, which is contrary to the Notification.

12. Though normally, drawing on the judgment in the case of *Mohinder Singh Gill and another Vs. The Chief Election Commissioner, New Delhi and Ors.* (1978 AIR 851) this Court will not permit the respondent to improve the impugned order, Para 14 of the counter is relevant and crystallizes the substantial issue that arises in this writ petition, as follows:-

'14.I submit that the Petitioner had merely submitted a self-attested copy of the marksheet on 23.12.2023 and not the original marksheets/Certificates. I further submit that out of the of 222 students who had not submitted their original Certificates, as on 20.12.2023, all the students except 17 students have submitted their original marksheets as per the circular dated 26.12.2023. I further submit that despite the delay in submission of the Original



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Certificates/Marksheets, the above said 205 students were allowed to write their exams only because, they did not have any arrears in their UG course when they took up admission in PG Course and they completed their UG course by April/May 2023. I submit that even the delay in submission of Certificates by the Petitioner would have been condoned, had he completed his UG programme by April/May 2023.'

13. This Court is conscious of the fact that the impugned order does not contain the reasoning as contained in para 14 of the counter, and that the provisional allotment order stands undisputed. However, the relevant facts are admitted and attest to the position that the petitioner had an arrear as on the date of the provisional allotment order. As a result, the pre-condition under the entrance Notification has not been satisfied (see mark sheet dated 11.07.2023 at pg.no.14 of compilation dated 31.01.2024).

14. In the above circumstances, the very admission of the petitioner to the course stands vitiated and for the aforesaid reasons, this Writ petition is dismissed. No costs. Connected Miscellaneous Petitions are closed.

27.03.2024

Index : Yes
Speaking Order
Neutral Citation: Yes
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