

(2014) 10 AP CK 0002

Andhra Pradesh High Court

Case No: Writ Petition No. 24982 of 2014

Battala Sneha

APPELLANT

Vs

Osmania University

RESPONDENT

Date of Decision: Oct. 20, 2014

Citation: (2015) 2 ALD 94 : (2015) 1 ALT 190

Hon'ble Judges: C.V. Nagarjuna Reddy, J

Bench: Single Bench

Advocate: M. Rajender Reddy, Advocate for the Appellant; T. Praveen Kumar for Deepak Bhattacharjee, Advocate for the Respondent

Judgement

@JUDGMENTTAG-ORDER

C.V. Nagarjuna Reddy, J.

This Writ Petition is filed for a mandamus to set-aside proceedings No. 21/BE/MP/Exams/2014, dated 13-8-2014 of respondent No. 2 whereby he has cancelled the result of the examinations of the petitioner.

2. I have heard Sri M. Rajender Reddy, learned Counsel for the petitioner and Sri T. Praveen Kumar, learned Counsel representing Sri Deepak Bhattacharjee, Standing Counsel for the Osmania University.

3. It is the pleaded case of the petitioner that she joined the first year Engineering course in Muffakham Jah College of Engineering, Hyderabad, (respondent No. 4) in Computer Science stream of B.E. during the academic year 2013-14 and that the said college is affiliated to the Osmania University. It is further pleaded that on 26-6-2014, when the petitioner was appearing for Engineering Mechanics paper, the Invigilator has taken her answer sheet and asked her to leave the examination centre on the ground that some pencil writings were found on the petitioners Hall Ticket and that despite the petitioners attempt to explain about those writings by stating that they have nothing to do with the examination paper she was writing, she was not allowed to write the examination and accordingly the petitioner was

forced to leave the examination hall. It is further pleaded that the petitioner was also not allowed to write the subsequent examination in Engineering Graphics subject scheduled on 28-6-2014 and that prior to 26-6-2014 she has appeared for 11 papers, including Labs, commencing from 9-6-2014. That the petitioner received show cause notice No. MR-17/20/BE/Exams/MP/2014, dated 28-7-2014 from respondent No. 2 wherein it is inter alia alleged that the Chief Superintendent of Examination Centre of Methodist Engineering College reported that the petitioner was involved in an act of malpractice while writing the examination on 26-6-2014; that the matter is referred to the Committee on malpractice cases and that the Committee is instructed to provide the petitioner a right of hearing, appreciate her reply and evidence adduced by her and the evidence adduced by the University in its proper perspective and thereafter pass appropriate orders. The petitioner was accordingly directed to show cause as to why disciplinary proceedings should not be initiated against her under Ordinance No. VII and the Rules framed thereunder and that to provide her a clear right of hearing she was requested to appear before the Committee on Malpractice Cases on 6-8-2014 at 3 p.m. in Room No. 29, Examination Branch, Osmania University branch, Hyderabad. The petitioner has been given liberty to submit her reply, adduce any documentary or oral evidence to refute the allegation of malpractice and also to peruse the original records on the date of hearing. The petitioner pleaded that she has submitted before the Committee on Malpractice cases her detailed explanation and that the respondents without considering the said explanation have passed a common cyclostyled order with regard to the petitioner and 47 other students cancelling the examination of all papers including the one in which the petitioner has allegedly indulged in malpractice.

4. On behalf of respondent Nos. 1 to 3, the Registrar of the Osmania University/respondent No. 1, Hyderabad has filed a counter-affidavit. It is inter alia stated in the counter-affidavit that the student is not supposed to write anything on the Hall Ticket; that as the student is found to have violated this rule, the punishment as per Regulation No. 7 of Ordinance No. VII is awarded.

5. I must confess that I am thoroughly disappointed with the manner in which respondent No. 2 has passed the impugned order and the Registrar of respondent No. 1 has filed his counter-affidavit. The responsibility which is expected of the high functionaries of a University while dealing with the career of students is totally absent in the approach of both these respondents. In her explanation dated 16-8-2014, the petitioner has categorically stated that when she was writing the examination, the Vigilance Team of Osmania University came and found some pencil notes on her Hall Ticket; that she pleaded that the notes found on the Hall Ticket were unrelated to the examination being held on that day; and that she requested the officer to look into the answer sheet to verify this fact. While the show cause notice looks very generous in its form, i.e., that it has informed the petitioner that she will be permitted not only to submit her explanation but she will also be

given a clear right of hearing and also adduce documentary and oral evidence to refute all the allegations of malpractice, the unceremonious manner in which the impugned order is passed only convinces me to hold that the show cause notice has just held out an empty promise. Shockingly, respondent No. 2 has dealt with the cases of as many as 48 students without dealing with the nature of the malpractice alleged against each of the students, the explanations submitted by them, the evidence in support of the allegation of the alleged malpractice and the conclusion drawn by him. In a cryptic statement, respondent No. 2 has observed that the Committee, after examining all the evidence and available material and explanations submitted by the candidates has decided to award the punishment of cancellation of the examination. This order does not show that the petitioner was supplied with the decision of the Committee which formed the sole basis for the imposition of penalty on the petitioner. In my considered opinion, the order passed by respondent No. 2 is liable to be set-aside only on the ground that it does not satisfy the requirements of a speaking order required to be passed while dealing with the careers of students as such order results in serious adverse consequences.

6. This Court, however, does not intend to stop at this, because relegating the petitioner again to the jurisdiction of respondent No. 2 would only result in further waste of valuable academic time. Instead, I have heard the learned Counsel for the parties on merits.

7. As noted above, it is the specific plea of the petitioner in her explanation as well as in the Writ Petition that the pencil notings on her Hall Ticket did not relate to the examination she was writing on 26-6-2014. Neither this issue has been adverted to by respondent No. 2 in the impugned order, nor by respondent No. 1 in the counter-affidavit. Therefore, this plea of the petitioner deserves to be accepted. The question therefore is if some writing unconnected with the examination is found written, is the student liable for any disciplinary action? In my opinion, the answer must be no. If the student had the intention of committing malpractice to gain undue advantage in an examination, he/she is expected to carry writings which are relevant to the examination. If a writing which is wholly irrelevant to the examination of the day is found on any paper, at best, the student can be warned not to indulge in such acts in future. Indeed, this is what Regulation No. 7 of Ordinance No. VII, on which the counter-affidavit relied upon, envisages. The said Regulation reads as under:

8. Even assuming that the pencil writing on the Hall Ticket unconnected with the examination found on the Hall Ticket constitutes malpractice, the maximum punishment that should have awarded to a student is a warning not to do so (in future). Unfortunately, both the Committee on Malpractices and respondent No. 2 have not applied their mind to this vital aspect. Respondent No. 1 is not diligent in even denying the averments made by the petitioner in her affidavit, leave alone advert to the relevant facts. The entire procedure followed by respondent Nos. 1

and 2 smacks of utter lack of care and accountability in dealing with the precious career of the students.

9. Since this Court is convinced that the punishment awarded by respondent No. 2 is not based on consideration of the petitioners explanation and is contrary to the facts and also Regulation No. 7 of Ordinance No. VII referred to above, the impugned order is not sustainable to the extent it relates to the petitioner. Respondent Nos. 1 to 3 are directed to treat the examinations written by the petitioner in the 11 papers prior to 26-6-2014 as valid, value the answer sheets relating to the said papers and declare the result of the petitioner within one month from the date of receipt of this order. For resorting to the unwarranted action against the petitioner, thereby subjecting her to serious hardship and denying her valuable opportunity of writing two papers on 26-6-2014 and 28-6-2014, respondent Nos. 1 is saddled with costs of Rs. 25,000/- (Rupees twenty five thousand only) payable to the petitioner.

10. The Writ Petition is accordingly allowed to the extent indicated above.

11. As a sequel to the disposal of the Writ Petition, WPMP No. 31261 of 2014 and WVMP No. 2852 of 2014 are disposed of as infructuous.