

(2006) 12 MAD CK 0041

Madras High Court

Case No: Writ Petition No"s. 38985 of 2005 and 2853 of 2006 and W.P.M.P. No"s. 41756 of 2005, 2952, 12586 and 17344 of 2006

J. Prasanna Devi

APPELLANT

Vs

The Principal, Government Law
College and The Registrar, Dr.
Ambedhkar Law University

RESPONDENT

Date of Decision: Dec. 13, 2006

Hon'ble Judges: M. Jaichandren, J

Bench: Single Bench

Advocate: S.M. Subramaniam, for the Appellant; C. Thirumaran, G.A. for R1 and V.M.G. Ramakkannan, for R2, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

M. Jaichandren, J.

W.P. No. 38985 of 2005: The writ petition has been filed praying for the issuance of a Writ of Mandamus to direct the respondents to permit the petitioner to appear in the second year B.G.L. Semester examinations scheduled to commence on 02.12.2005 and to value the papers and to declare the results.

W.P. No. 2853 of 2006: The Writ Petition has been filed praying for the issuance of a Writ of Mandamus to direct the respondents to admit the petitioner and to permit her to attend the classes in the second year Law Course in Government Law College, Tirunelveli.

2. Since both the writ petitions have arisen under the same facts and circumstances, a common order is passed.

3. Heard the learned Counsel for the petitioner as well as for the respondents.

4. It is stated by the petitioner that she is studying in the second year Law Course in the Government Law College at Tirunelveli. The semester examinations for the second year Law Course was scheduled to commence on 02.12.2005. While her parents were residing at Chennai, the petitioner was staying in her relative's house at Melapudukudi Village, Tiruchendur Taluk, Tuticorin District. She was sick for some time and therefore, she was not able to attend the classes regularly from 05.09.2005 to 24.11.2005.

5. It is stated by the petitioner that she had submitted a Medical Certificate and had also paid the examination fees, while submitting the application form for the semester examinations. It is further stated by the petitioner that she had made a representation to the Principal, Government Law College, Tirunelveli, the first respondent in the present writ petition, on 05.08.2005, to transfer the petitioner to Dr.Ambedhkar Government Law College , Chennai. The petitioner had submitted a representation, on 28.11.2005, along with the Medical Certificate, requesting for permission to write the examinations. However, the respondents had not issued the hall ticket to the petitioner to write the second year B.G.L. Course examinations that was scheduled to commence from 02.12.2005. Hence, the present writ petition.

6. The petitioner had also prayed for an interim direction to direct the respondents to permit the petitioner to appear in the second year B.G.L semester examinations scheduled to commence on 02.12.2005. By an order, dated 02.12.2005, this Court had passed the following order:

Taking note of the Medical Certificate furnished by the petitioner, interim direction as prayed for subject to the result of the writ petition. Notice.

Based on the said order, the petitioner had taken the semester examinations of the second year B.G.L Course. However, the results had not been published due to the pendency of the writ petition. While so, the petitioner had filed another writ petition before this Court in W.P. No. 2853 of 2006, praying for a direction to direct the respondents to admit the petitioner and permit her to attend the classes in the second year Law Course in the Government Law College, Tirunelveli, stating that the semester examinations were completed in the month of December,2005, and since the college had reopened after the Pongal Holidays, the petitioner had gone to the college to attend the classes. The Principal of the Government Law College, Tirunelveli, the first respondent in the said writ petition, had refused to permit the petitioner to attend the classes on the ground that she had appeared in the semester examinations, pursuant to the directions issued by this Court and that the petitioner would be permitted to attend the classes only if a further order is obtained from this Court, directing the respondents to permit the petitioner to attend the classes. Therefore, the petitioner had filed the writ petition W.P. No. 2853 of 2006.

7. Paragraph 6 of the counter affidavit filed on behalf of the second respondent in W.P. No. 38985 of 2005, reads as follows:

6. As regards the averments made in para 9 and 10 of the affidavit , it is submitted that in the Rules of the Bar Council of India in Part IV, u/s B, Rule 3 read as follows:

The students shall be required to put in a minimum attendance of 75% of lectures on each of the subjects as also at tutorials, moot courts and practical training course:

Provided that in exceptional cases for reasons to be recorded and communicated to the Bar Council of India, the Dean of the Faculty of Law and the Principal of Law Colleges may condone attendance short of those required by the Rule, if the student has attendance 66% of the lectures in the aggregate for the semester or examination as the case may be.

The rules are mandatory. The petitioner did not secure even 66% attendance. Hence hall ticket was not issued to the petitioner. The petitioner was allowed to write the examinations on the strength of the interim orders given by this Hon"ble Court, on 02.12.2005, in WPMP No.41756 of 2005 in W.P.No.38985 of 2005. It was mentioned in the order that the interim direction as prayed for subject to the result of the writ petition. The petitioner was allowed to write the examinations and results were withheld. Since the petitioner has lack of attendance and since she did not secure 66% of attendance, she has to redo the course.

This Court had granted an interim order in W.P.M.P.No.12586 of 2006, on 20.04.2006, stating as follows:

In view of the pendency of the writ petition and based on the submissions made by the learned Counsel appearing for the petitioner, the respondents are directed to permit the petitioner to appear in the practical examinations and to write the second year B.G.L. 4th semester examinations scheduled to commence in the month of May,2006. However, it is made clear that the results will not be published until further orders of this Court.

8. The learned Counsel appearing on behalf of the respondent had pointed out that the regulations in the hand book of the Government Law College, Tirunelveli, states as follows:

8. Shortage in the minimum of attendance required will be condoned by the University only if sufficient grounds are shown with regard to the entire period of absence and not merely for the day in which the attendance falls short of the minimum.

9. The course of instruction ordinarily commences in July. The academic year will consist of about 180 days.

10. Students shall:

- a) attend classes regularly every working day throughout the academic year.
- b) seek permission of the Principal for every absence by explaining the reason therefor.

11. A student present at the college any day but unable to attend all the hours of instruction for his class or section may earn attendance for the full day or half a day at the discretion of the Principal by applying to the Principal for leave to be absent from any or more of the hours of instruction.

12. Days on which the college examinations are held shall not be included among the days in which the attendance may be earned and the examination shall not count as hours of instruction.

13. Attendance at college examination is compulsory and absence will only be excused for valid reason. Leave for absence should be applied before-hand in all possible cases. Illness will not be accepted as valid reason unless the absentee produces a Medical Certificate signed by a recognised doctor that he was not physically fit to attend the college on the day or days of the examination in question. Absence without leave for one day will be reckoned as absence for two days.

14. The certificate enabling the students to sit for University examination will not be granted unless the students has

- a) earned 75% of the attendance for the year;
- b) satisfied the Principal as to his conduct; and
- c) has shown satisfactory progress. The progress of the student will be judged by his performance in the college examination.

Accordingly, the Principal of the Law College is empowered to condone the shortage of attendance only if the student had got a minimum of 66% attendance. If the attendance of the student was below 66%, there is no provision for condonation even on medical grounds. In the third semester of the second year B.G.L. Law Course, the petitioner had attended only on 16 days out of the 90 days in the semester. Therefore, the petitioner was prevented from taking the semester examinations at the end of the third semester. However, in view of the order passed by this Court, on 02.12.2005, the petitioner was permitted to write the third semester examinations. However, the results had been withheld. Since the petitioner did not have the required minimum attendance of 75%, during the third semester, she was not allowed to go to the fourth semester of the second year B.G.L. Course. Even to request for condonation of shortage of attendance on medical grounds, she should have atleast 66% of attendance.

9. The minutes of the Syndicate Sub-Committee, UG Board of Studies, dated 22.06.2004, reads as follows:

Item No.2

Framing of regulations regarding readmission of students who have been detained in the odd semesters of 3 year and 5 year B.L. Degree Courses due to lack of attendance.

It is RESOLVED to recommend to the Syndicate that if a student fails to earn sufficient attendance in one semester, the student will not be eligible to take that semester examination and will not be allowed to continue in next semester and the student must redo the entire semester in which he/she lacked sufficient attendance and only on completion of that semester in which he/she has to redo, will be allowed to continue the next semester.

The resolution of the Syndicate Sub-Committee, UG Board of Studies, had also been approved by the Syndicate.

10. At this stage of hearing of the case, the learned Counsel appearing for the petitioner has produced before this Court a document, Na.Ka.No.1052/Aa/2005, dated 14.03.2006, alleged to have been issued by the Principal Government Law College, Tirunelveli, in which it is shown that the petitioner has 67 and half per cent attendance. The learned Counsel appearing for the respondents, on verification of the said document, had categorically stated that the document, dated 14.03.2006, produced by the learned Counsel for the petitioner was a forged document, since no such document had been issued by the then Principal of the Government Law College, Tirunelveli. On being questioned about the allegedly forged document, the learned Counsel for the petitioner had stated that the document had been sent to him by another student of the college and that he does not know about its origin. In such circumstances this Court is of the opinion that the respondents ought to enquire into the matter in all seriousness, to verify the veracity or otherwise of the said document and cause further investigation into the matter, and take appropriate steps to expose the persons involved in creating the document and initiate appropriate action against them in accordance with law, since such activities should not be encouraged, especially, in institutions connected with academic activities. However, it seems, on a cursory view of the matter, the petitioner had innocently come across the document purported to be a forged one.

In such circumstances, this Court is of the considered view that the petitioner has not made out a case to persuade this Court to grant the reliefs prayed for in the writ petitions. Therefore, both the above writ petitions are dismissed. No Costs. Consequently, the connected WPMPs are closed.