

(2013) 11 MAD CK 0162

Madras High Court (Madurai Bench)

Case No: Writ Petition (MD) No. 17944 of 2013 and M.P. (MD) No's. 1 and 2 of 2013

The Correspondent/Secretary,
Annai Velankanni College

APPELLANT

Vs

The Director of Collegiate
Education, The Regional Joint
Director of Collegiate Education
and The Manonmaniam
Sundaranar University

RESPONDENT

Date of Decision: Nov. 12, 2013

Hon'ble Judges: S. Nagamuthu, J

Bench: Single Bench

Advocate: Isaac Mohanlal, for the Appellant; N.S. Karthikeyan, Addl. Govt. Pleader for Respondents 1 and 2 and Mr. K. Sathiya Singh for Respondent-3, for the Respondent

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

S. Nagamuthu, J.

The petitioner is a self-financing private college, run by a Registered Society known as "Friends of Kottar". According to the petitioner, there are about 1438 students studying in the college. There are 72 teaching staff and 13 non-teaching staff working in the college. The petitioner claims that it should be given Christian minority status. The petitioner college has been already running 8 undergraduates and 7 post-graduate courses. The college is affiliated to Manonmaniam Sundaranar University, Tirunelveli. For the academic year 2013-2014, the petitioner college had applied to the 3rd respondent University seeking for affiliation of B.Sc. Zoology Degree course. Besides that, the petitioner had applied for affiliation to B.A. (Tamil), M.Sc. (Computer Science), M.Com. and M.Phil. (Commerce) courses. The application for B.Sc. Zoology was pending consideration of the 3rd respondent University. Thus, as a matter of fact, affiliation to start B.Sc. Zoology course was not at all given.

2. While so, for the academic year 2013-2014, the petitioner college admitted 26 students in B.Sc. Zoology course. According to the petitioner, this was intimated to the University also. The above said 26 students had undergone the course for the I-semester examination. The petitioner college collected examination fees from the students and submitted the same to the University. The University had sent forms for hall-tickets to be prepared by the college. Accordingly, the college prepared hall-tickets for the above stated 26 students. Hall-tickets contained photographs of each student and also the signature of the principal of the college. Thereafter, as per the practice, the college submitted all the 26 hall-tickets to the University for issuance.

3. Based on the above, the University prepared nominal roll of candidates for November, 2013 examination, to be held at Annai Velankanni College, namely the petitioner college. The said nominal roll, containing the names of all the 26 candidates and their registration numbers, was forwarded to the college on 23.10.2013. Along with the said nominal roll of the above said candidates, the hall-tickets for the said 26 candidates, signed by the Controller of Examinations of the University (by means of facsimile), were also sent to the college for being distributed to the students. It needs to be noted that this hall-ticket is a permanent document for a student until he completes his course in the said college. Accordingly, these students were made to believe that they would be allowed to sit for the I-Semester examination, which was to commence on 06.11.2013.

4. While so, the Controller of Examinations of the 3rd respondent University sent a letter, dated 01.11.2013, to the Principal of the petitioner College, wherein he has stated as follows:

I am by direction to inform you that you have not been given affiliation for B.Sc. Zoology course during the academic year 2013-14. Hence students admitted to B.Sc. Zoology during 2013-14 are not permitted to write November 2013 examinations.

This order was served on the petitioner on 04.11.2013. Immediately, the petitioner college filed the present writ petition seeking a mandamus to direct the respondents to pass orders forthwith on the petitioner's application for affiliation, dated 11.10.2012, granting affiliation for the B.Sc. Zoology course from the academic year 2013-2014 and to permit the students to take the periodical examinations. Along with the writ petition, the petitioner filed a miscellaneous petition in M.P. (MD) No. 1 of 2013 seeking an interim direction to the respondents to permit the above stated 26 students, studying in the B.Sc. Zoology Degree course, to write the examinations which was to commence on 06.11.2013.

5. When the writ petition was listed for admission on 05.11.2013 and taken-up for hearing in the forenoon, this Court had requested the Standing Counsel for the 3rd respondent University to get instructions. Accordingly, again when the matter was taken-up for hearing in the afternoon session, on getting instructions from the

University, the learned Standing Counsel submitted that since the students had been admitted in the course which had no affiliation from the University, the order dated 01.11.2013 came to be passed.

6. Having considered the above fact that the University had issued hall-tickets, had assigned registration numbers for the students, had sent nominal roll after having received the examination fee from the students, this Court, in order to safeguard the interest of the students, directed the University to permit the students to sit for the examination which was to commence from 06.11.2013. In the same order, this Court had directed the Controller of Examinations of Manonmaniam Sundaranar University to be present before this Court on 07.11.2013.

7. When this matter came up for hearing on 07.11.2013, the Controller of Examinations was not present. However, accepting the explanation offered by the learned Standing Counsel for the University, the matter was adjourned to 11.11.2013. On 11.11.2013, the Controller of Examinations of Manonmaniam Sundaranar University Mr. Prabhakaran appeared before this Court and on hearing him, this Court passed the following order.

2. When this Court enquired him, he told that the petitioner College had already submitted an application for affiliation of B.Sc. Zoology course. He further submitted that inspection had already been completed and the request for affiliation is pending. He would further submit that hoping that the university may grant affiliation to the petitioner college, the University authorities approved the list of the 24 candidates admitted by the college in B.Sc. Zoology course. Thereafter, the College collected examination fees from the said 24 students and forwarded the same to the University. That was also not refused and instead the University had accepted the same. For this, the explanation of the Controller of Examinations is that he believed that the affiliation would be granted in the meanwhile. Thereafter, hall-tickets were also sent to the college by the Controller of Examinations.

3. According to the controller of Examinations, when the examinations were about to commence, he received a communication that affiliation had been rejected. Therefore, he sent the impugned communication, stopping the students from going for the examination. He would further submit that on account of the interim order passed by this Court, the students have been permitted to write the examinations. He would further submit that now he will place all these facts to the Syndicate, which is going to have its meeting on 25.11.2013. When a specific query was made to him, as to how the admission of the students was approved by the University, when there was no affiliation, the Controller of Examinations submitted that it was done by the Registrar of the University.

4. In view of the said position, the Registrar of the third respondent University, Mr. Tamilselvan, is directed to be present before this Court on 12.11.2013 at 2.15 p.m., along with the relevant records pertaining to the above issue. The standing counsel

for the 3rd respondent University shall inform this order to the Registrar and shall ensure his presence before this Court on 12.11.2013 at 2.15 p.m.

8. When this writ petition is taken-up today, the Registrar of Manonmaniam Sundaranar University Mr. T. Tamizh Chelvan is present, along with the Controller of Examinations. He has also filed a counter affidavit. In the counter, inter alia, it is stated that the application submitted by the petitioner college for affiliation is pending and the same will be considered in the next meeting of Syndicate. It is further stated that the College has illegally admitted 26 students in B.Sc. Zoology course, without affiliation. He has further stated that inadvertently, examination fee from the above stated students was received by the University, nominal roll was prepared assigning registration numbers to these 26 students and hall-tickets were also sent to the college for distribution to the students to enable them to write examination which commenced on 06.11.2013. The Controller of Examinations would submit that since he came to know that affiliation has not been given by the University, he sent the letter dated 01.11.2013 withdrawing the permission granted to the above stated 26 students to write the examinations. In the counter, it is further stated that this kind of mistake will not occur in future. In other respects, the 3rd respondent has denied the allegations.

9. I have heard the learned counsel Mr. Isaac Mohanlal appearing for the petitioner, the learned Additional Government Pleader appearing for respondents 1 and 2 and Mr. K. Sathiya Singh, the learned Standing Counsel for the 3rd respondent University. I have also perused the records, carefully.

10. This is an unfortunate case, where this Court has come across with the indifferent attitude of the petitioner college as well as the Manonmaniam Sundaranar University, which has caused a lot of mental agonies to the students and has also made a question mark about the future of the students. Admittedly, the application given by the petitioner college for affiliation is still pending with the University. The Registrar of the University, who is present before this Court, would submit that soon the Syndicate meeting will be held, in which the said application for affiliation for this course will be considered. But, the fact remains that though the Hon"ble Supreme Court as well as this Court have been repeatedly impressing upon the college authorities that they should not admit students without affiliation, as it will spoil the career of the students, the petitioner college, unmindful of the said legal position, has admitted 26 students in the college in B.Sc. Zoology Course, which has not been affiliated.

11. As I have already pointed out, the students, who were admitted in the course, were not intimated that the request for affiliation was pending before the University. The students had completed the I-Semester Course, in the meanwhile. The College collected examination fees from these 26 students and submitted the same to the University. The University did not prefer to refuse to receive the said amount. To the contrary, the University received the said examination fees which

the college collected from the students. Had it been told atleast at that time that the University will not permit the students to sit for examinations since the course had not been affiliated, the students would have joined some other course in the same college or atleast some other course in some other college. This was not done by the University.

12. Thereafter, according to the Controller of Examinations, the college principal requested for 650 hall-ticket forms. The Controller of Examinations, without verifying the number of students who were to go for the I-Semester examination during the said academic year, sent 650 hall-ticket forms for preparation of hall-tickets. The college authorities filled-up those forms, affixed photographs of the students, attested the same and the principal had signed in those forms and submitted the same to the University for issuance of the hall-tickets. At that time, it is the duty of the University to verify whether these candidates have been admitted against any course which had been affiliated or not. Without verifying the same, the Controller of Examinations finished further formalities in respect of the hall-tickets and sent the same to the college for being distributed to the students. For doing so, the Controller of Examinations prepared a nominal roll of the students and assigned registration number for each student. It needs to be noted that this registration number is a permanent number for a student until he/she completes the course. Similarly, the hall-ticket is also a permanent document for all examinations to come in the said course. The University sent the nominal roll also to the college.

13. The college, in turn, distributed the hall-tickets to the students. Thereafter, those students were fully hopeful that they would be writing the examinations which was to commence on 06.11.2013. Neither the college nor the University had informed the students that the course had not been affiliated and that the petitioner's request for affiliation was still pending with the University. The young students, who were concerned about their future, would have spent their time in preparation for the examination. When the examination was fast approaching, suddenly on 04.11.2013, the college received a communication from the Controller of Examinations stating that the above stated 26 students will not be permitted to going for examinations. Certainly, on 04.11.2013, this would have come to the knowledge of the students and their parents. It is beyond one's comprehension, as to how much of mental agony the students as well as their parents would have suffered because of the last minute turn-of events.

14. Fortunately for the students, the college moved this Court on 05.11.2013 itself. As I have already stated, considering the fate of 26 students, this Court instructed the learned Standing Counsel for the 3rd respondent University to get instruction. The learned Standing Counsel was pleased to concede to the said request and assured to contact the University to get instructions. Accordingly, when the matter was taken-up in the afternoon on 05.11.2013, he submitted to this Court that the course had not been affiliated and therefore the order, dated 01.11.2013, came to

be issued by the Controller of Examinations. However, having regard to the circumstances of the case, interest of the students and the fact that the students were made to believe all through that they were studying the course which had affiliation of the University, this Court issued interim order. When the interim order was passed, it was late in the evening. However, considering the urgency, this Court issued direction to the Registry of this Court to communicate this order by e-mail to the e-mail address of the University. On receipt of the same, now these students have been permitted to write the examinations.

15. Now, the question is whether the students can be allowed to suffer at the hands of the petitioner college as well as the 3rd respondent University. In a number of judgments, the Hon"ble Supreme Court has held that showing any sympathy in such cases will be only a misplaced sympathy, because the college authorities have become emboldened to admit the students as against the non-affiliate courses, hoping that at a later point of time, showing sympathy in favour of the students, Courts of Law would grant interim orders to permit the students to write examinations. Had the University not approved the admission of these students, issued Hall-Tickets, issued nominal roll assigning Registration Numbers, this Court would not have shown any sympathy in this matter and this Court would have simply dismissed the writ petition. But, here, the 3rd respondent University, which is governed by a Statute and which is a State instrumentality, has committed these errors and therefore I am of the view that this is a fit case where, by showing sympathy to the students and to safeguard their interest, this Court has to pass orders thereby doing justice to the students.

16. The learned counsel for the petitioner would submit that the third respondent University has granted temporary affiliation for B.A. Tamil, M.Sc. (Computer Science), M.Com. and M.Phil. (Commerce) courses, by order dated 30.10.2013. Thus, it is also hoped that such temporary affiliation would be given so far as the application of the petitioner college for B.Sc. Zoology Course is concerned, as already the authorities of the 3rd respondent University have visited the college and no adverse fact has been brought to the notice of this Court so as to deny even the temporary affiliation. The Registrar himself would inform this Court, today, that the matter would be placed before the Syndicate for its consideration and appropriate orders would be passed.

17. Having regard to these facts and circumstances, I am of the view that the University shall grant atleast temporary affiliation for B.Sc. Zoology course, in respect of these 26 students alone, so as to enable them to complete the course in the petitioner's college. Whether the college is entitled for affiliation of B.Sc. Zoology Course for the subsequent years or whether there can be a permanent affiliation for the said course are all matters to be gone into by the University Syndicate and to take a decision. I only want to repeat that by granting temporary affiliation or affiliation in any other form, these 26 students should be allowed by the

University to complete their three years course of B.Sc. Zoology in the petitioner college and they should be permitted to sit for their examinations and their results should be published and appropriate degrees should be awarded, on the basis of their success in the examinations.

18. While doing so, this Court cannot close this judgment, without imposing appropriate costs for the illegal activities committed by the petitioner college, the mental agony caused to the students and the wastage of the judicial time of this Court. I deem it appropriate that the petitioner college should pay a cost of Rs. 1,00,000/- (Rupees one lakh only). Similarly, the 3rd respondent University is also held responsible for all these sufferings of the students and the wastage of the time of this Court. As I have already pointed out, it is really unfortunate to note that the University in the counter affidavit has admitted that the University has acted inadvertently in issuing Hall-Tickets and assigning Registration Numbers to the Students and in issuing nominal roll. But for these proceedings of the University, I am sure that this Court would not have shown any sympathy in this matter. Because the University, which is a State instrumentality, itself has committed such irregularities and has issued such irregular proceedings, I deem it appropriate to impose costs on the University also. Having regard to the gravity of the mistake, resultant sufferings of the students and the wastage of this Court's time, I deem it appropriate to impose a cost of Rs. 20,000/- (Rupees twenty thousand only) to be paid by the 3rd respondent University. In the result, the writ petition is disposed of in the following terms:

(i) The 3rd respondent University shall issue temporary affiliation for B.Sc. Zoology Course for the petitioner college, so as to enable the above stated 26 students to whom hall-tickets have been issued to complete their three years course in the said college.

(ii) The University shall permit those 26 students to write all the semester examinations and publish their results and also issue degrees to the successful candidates.

(iii) The students shall undergo the course, by paying necessary fees to the petitioner college as well as examination fees and by adhering to the other requirements relating to the said course.

(iv) The 3rd respondent University shall consider the request of the petitioner college for affiliation of B.Sc. Zoology course, permanently, in its next meeting and pass appropriate orders.

(v) The petitioner college shall pay a sum of Rs. 1,00,000/- (Rupees one lakh), as costs, and the same shall be paid to the Government Leprosy Home, Y. Othakadai, Madurai District, within a period of one week from today. The Chief Officer of the said Home shall receive the said amount, on production of a copy of this order and issue a receipt for the same. The Government Leprosy Home shall spend the said

amount for the welfare of the inmates of the Home.

(vi) The 3rd respondent University, namely Manonmaniam Sundaranar University, Tirunelveli, shall pay a cost of Rs. 20,000/- (Rupees twenty thousand only) and the same shall be paid to Annai Sathya Orphanage, Social Welfare Department, near Collectorate, Madurai, within a period of one month from today. On production of a copy of this order, the Chief Officer of Annai Sathya Orphanage Home shall receive the said amount and issue appropriate receipt to Manonmaniam Sundaranar University, Tirunelveli. Thereafter, the said amount shall be spent for the welfare of the inmates of the Orphanage Home.

Consequently, connected M.P. (MD) Nos. 1 and 2 of 2013 are closed.

Registry is directed to list this writ petition again on 21.11.2013, for reporting compliance by the petitioner and again on 16.12.2013, for reporting compliance by the 3rd respondent.