

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-11-2007

CORAM

The Hon'ble Mr.A.P.SHAH, CHIEF JUSTICE
AND
THE HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN

WRIT PETITION Nos.11111 to 11115 of 2004, 11117 of 2004, 11118 of 2004, 11120 to 11124 of 2004, 13123 of 2004, 13126 of 2004, 13955 of 2004, 13956 of 2004, 28545 of 2004 and 30046 of 2007

And

WPMP Nos.13031 to 13035, 13037, 13038, 13040 to 13044, 25525 to 25527, 22547 to 22558 of 2004 and MP Nos.2 and 4 of 2007

T. V. Sreekumar	...Petitioner in WP.No.11111 of 2004
Anjith Methew	...Petitioner in WP.No.11112 of 2004
M. S. Sruthi Chandran	...Petitioner in WP.No.11113 of 2004
R. Sreenath	...Petitioner in WP.No.11114 of 2004
Rekha Sreekumar	...Petitioner in WP.No.11115 of 2004
Rakesh Memanaverghese	...Petitioner in WP.No.11117 of 2004
Rabin Verghese	...Petitioner in WP.No.11118 of 2004
Arun V. Mathew	...Petitioner in WP.No.11120 of 2004
Leo Thomas	...Petitioner in WP.No.11121 of 2004
Eldhow Johney	...Petitioner in WP.No.11122 of 2004
Jerald Pereira	...Petitioner in WP.No.11123 of 2004
Melbin Abraham	...Petitioner in WP.No.11124 of 2004
C. Prabakaran	...Petitioner in WP.No.13123 of 2004
Sowmya Bolla	...Petitioner in WP.No.13126 of 2004
Lokesh Niranjana	...Petitioner in WP.No.13955 of 2004
G. K. Yuvakumar	...Petitioner in WP.No.13956 of 2004

Melbin Abraham
Gerald Periera
Anjith Mathew
Sruthi Chandran
R. Sreenath
Rekha Sreekumar
Rakesh Memana Varghese
Robin Varghese
Arun V. Mathew
Sreekumar T. V
Leo Thomas
Eldho Johnev

...Petitioners in WP.No.28545/04

Selvi Kothapalli
Shirisha Raju

...Petitioner in WP.No.30046 of 2007

1. The Registrar,
Anna University,
Chennai.

2. Sri Nandhanam
College of Engineering & Technology,
rep. by its Chairman,
Tirupattur 635601.
Vellore District.

1 and 2 Respondents in
All WPs.

The Controller of Examination
Anna University,
Guindy, Chennai.

The District Collector,
Rajaji Salai, Chennai.

3 and 4 Respondents in
WP.Nos.13123, 13126,
13955, 13956 of 2004.

Director,
Academic Course,
Member of Enquiry Committee,
Anna University,
Chennai - 600025.

The Controller of Examinations,
Member of Enquiry Committee,
Anna University, Chennai - 600025.

The Liaison Officer,
Directorate of Tech Education,
Member of Enquiry Committee,
Anna University, Chennai - 600025.

The Director,
Tamil Nadu Engineering Admissions,
Member of Enquiry Committee,
Anna University, Chennai - 600025.

The Legal Officer,
Member of Enquiry Committee,
Anna University,
Chennai - 600025.

The Director,
Centre for Engg. Partnership,
Member of Enquiry Committee,
Anna University,
Chennai - 600025.

Dr.M.A.Paneerselvam,
Principal
Jerusalem College of Engineering
Member of Enquiry Committee.

The Director,
Environmental Studies,
Member of Enquiry Committee,
Anna University,
Chennai - 600025.

The Director, Student Affairs,
Member of Enquiry Committee,
Anna University, Chennai - 600025.

3 to 11 Respondents in
WP.No.30046 of 2007

Writ petitions filed under Article 226 of Constitution of India praying for issue of a Writ of Mandamus directing the first respondent to treat the admission of the petitioner under NRI Quota and consequently direct the respondents to permit the petitioners to complete them B.E/B. Tech in the second respondent college or any other college in W.P.Nos.11111 to 11115 of 2004 and W.P.Nos. 11117 and 11118 of 2004 and W.P.Nos. 11120 to 11124 of 2004.

Calling for the records in Letter No.18/SA/2002 dated 26.3.2004 on the file of the first respondents to allow the petitioner to complete the ECE Course in the (in W.P.Nos.13955 and 13956 of 2004) and IBT Course (in W.P.No.13126 of 2004) and CSE Course (in W.P.No.13123 of 2004) in the 2nd respondent's college respectively.

Prohibiting the Respondents from cancelling or interfering with the admission/study of the BE/B.Tech Course pursued by the petitioners under the Respondents without a proper enquiry into any alleged irregularities in the admissions and after giving them a proper notice and opportunity in W.P.No.28545 of 2004.

calling for the records connected with the Enquiry dated 26.2.2007 bearing letter No.4093/SA/2002 passed by the Respondent Nos. 3 to 11 and quash the same and consequently direct the respondent No.1 and 2 to award the petitioner with the BE (EEE) Degree certificate along with all mark memos with necessary certificates in W.P.No.30046 of 2007.

For Petitioner in
WPs 30046/2007, 13123,
13126, 13955 and 13956
of 2004

: Mr.V.Prakash,
Senior Counsel for
M/s.Iyer Thomas.

For Petitioner in
WPs 11111 to 11115,
11117, 11118, 11120 to
11124 of 2004 and
28545 of 2004

: Mr.K.Alagirisamy,
Senior Counsel for
Mr.H.Karthik Seshadri

For Respondent-2 in
WP 30046/2007 and : Mr.T.R.Rajagopalan,
WP.28545/04 and Senior Counsel for
WP.11117 & 11118/04 Mr.Venkatesh Mohan Raj.
WP.11120 to 11124/04.

For Respondent-1 in
WPs 11111 to 11115 : Mr.Mani Sundar Gopal
of 2004 and for M/s.G.M.Mani
WP.No.11117 & 11118/04 Associates.
WP.No.30046/07, 11120
to 11124/04.

For Respondent-2 in
WPs 11111 to 11115 : Mr.T.R.Rajagopalan,
of 2004 Senior Counsel for
Mr.M.Venkatesan.

For Respondents-1&3 in
WPs 13123 & 13126/2004 : Mr.Mani Sundar Gopal
for M/s.G.M.Mani
Associates.

For Respondent-2 in : Mr.T.R.Rajagopalan,
WPs 13123 & 13126/2004 Senior Counsel.

For Respondent-4 in
WPs 13123 & 13126/2004 : Mr.Raja Kalifulla,
Govt. Pleader.

For Respondents-1&3 in
WPs 13955, 13956 and : Mr.Mani Sundar Gopal
For 1st Respondent for M/s.G.M.Mani
in WP.28545/04 Associates.

For Respondents-2&4 in
WPs 13955 & 13956/2004 : Mr.Raja Kalifulla,
Govt. Pleader.

For Respondents 3 to 11 : No Appearance.

COMMON ORDER

(ORDER OF THE COURT WAS MADE BY V.RAMASUBRAMANIAN, J.)

The petitioners in all these writ petitions applied for admission to B.E./B.Tech., Degree Course in the second respondent college, for the academic year 2002-2003. Out of the 17 students, who are the petitioners in this batch of 18 writ petitions (17 separate writ petitions and 1 common writ petition for 16 students), 12 hail from Kerala, 4 hail from Andhra Pradesh and 1 from Tamilnadu. The petitioner in W.P.No.11112 of 2004 by name Anjith Mathew is reported to have died in an accident.

2. All the writ petitioners were admitted to the B.E./B.Tech., Degree Course by the second respondent college in various disciplines, under the quota reserved for S.C/S.Ts. After the students completed three semesters and were expecting to appear for the fourth semester examination scheduled to be held in April 2004, they were informed by the management that the University refused to issue hall tickets to them, as they were found ineligible for admission.

3. Immediately the petitioners came up with the present batch of writ petitions, contending that they were admitted under the N.R.I quota and that they had no knowledge about any manipulation made by the management of the college, regarding their Community status and that therefore they cannot be penalised. Therefore they prayed for the issue of a Writ of Mandamus to direct the first respondent-University and the second respondent-College to allow them to complete their course, treating them as having been admitted under the N.R.I quota. One student (the petitioner in W.P.No.13123 of 2004) caught hold of a communication dated 26.3.2004 of the first respondent-University, addressed to the College, pointing out that the Community Certificates produced by a group of students (whose names were mentioned in the Annexure to the letter) were not genuine. Therefore, that student prayed for quashing the said communication also. Similarly, the petitioners in some of these writ petitions joined together and also filed additional writ petition in W.P.No.28545 of 2004, seeking a writ of prohibition, prohibiting the respondents from cancelling or interfering with the admission/study of the B.E./B.Tech., Course pursued by the petitioners under respondents without a proper enquiry into any alleged irregularities in the admission and after giving them a proper notice and opportunity.

4. In April 2004, most of these writ petitions were admitted and interim orders were passed, permitting the students to write the semester examinations. By virtue of the interim orders, the petitioners completed the entire course. But the petitioners could not get Course Completion Certificates and Degree Certificates, forcing them to come up with miscellaneous petitions for early hearing of the writ petitions.

5. At that stage, the learned Judge before whom, the miscellaneous petitions for fixing an early date and for vacating the interim orders were listed, heard the counsel appearing for the petitioners, the Standing Counsel for the University and the counsel for the second respondent-College. Upon finding that there is a factual dispute about the quota under which the petitioners sought admission and the quota under which the second respondent-College actually admitted them, the learned Judge passed an order dated 19.7.2007 in the entire batch of writ petitions (including some more writ petitions), appointing a retired Judge of this Court to conduct an enquiry. The said order was passed by the learned Judge, by consent of all the parties and hence it is necessary to extract paragraphs-18 and 19 of the said order, to appreciate the issues involved:-

"18. Learned Senior Counsel for some of the

petitioners/students and other counsel appearing for individual petitioners/students as well as the counsel for Anna University, the counsel appearing for the Institutions/Engineering Colleges concerned and the Government Pleader have unanimously agreed for appointment of a Commission to enquire into the matter before proceeding further in the writ petitions. In the light of the controversy involved, this Court deems it fit that the relief sought for by the petitioners/students can be decided after getting a report based on enquiry by a Court appointed Commissioner. Accordingly, the following issues needs to be considered and enquired into by the Commission:

(a) Whether the petitioners/students in all these cases applied for admission under N.R.I quota or under regular management quota (lapsed seats) under SC/ST quota?

(b) Whether the students/petitioners at the time of admission to the Institutions produced the Community Certificates or not?

(c) Whether the signatures in the letters of undertaking given by the petitioners/students, counter-signed by concerned Principal are the signatures of the petitioners/students or they are forged signatures?

(d) Whether the Community Certificates forwarded by the Institutions to the official respondents along with the applications of the petitioners/students have been applied for and produced by the petitioners/students (or) by the Institutions in question as stated by the petitioners/students?

19. In order to resolve the controversy and as agreed by parties, this Court appoints the Hon'ble Mr. Justice J. Kanakaraj (Retired Judge of this Court) to conduct an enquiry and file a report, on the above issues. The Commissioner is at liberty to consider any other relevant and necessary issue for the purpose of the enquiry. The Commissioner will be assisted by the Registrar, Anna University and the Director of Technical Education, Chennai. The petitioners/students are permitted to appear before the Commissioner as and when required either in person or through counsel and will also appear if required by the Commissioner. The Principal of the respective Colleges/Institutions shall also appear as and when directed by the Commissioner. All parties to co-operate without demur and produce documents in their custody as and when required."

6. In pursuance of the said order, Justice J.Kanakaraj (retired) inspected the original admission records in the Anna University on 19.9.2007 and issued notices to the petitioners as well as the College to appear for an enquiry in the University campus on 23.10.2007. After hearing the students (writ petitioners), their counsel and the representative of the College and their Advocate, the Commissioner submitted a report dated 15.11.2007 along with all the

documents such as application forms, transfer certificates, resident certificates, community certificates etc., as annexures.

7. Out of the petitioners in this batch of 18 writ petitions, one of them by name K.Shirisha Raju, the petitioner in W.P.No.30046 of 2007, had earlier filed a writ petition in W.P.No.24187 of 2004 and the same was disposed of by a learned Judge by an order dated 15.11.2006, directing the University to conduct an enquiry to find out the genuineness of the Community Certificate and to find out the person responsible for producing the same. In pursuance of the said order, an enquiry was conducted by the University and a report dated 26.2.2007 was submitted. In the said report, the Enquiry Committee of the University found the management of the College responsible for the malpractices in question. But the Committee also found the student guilty to the extent that she ought not to have continued the course, despite being ineligible for admission. Therefore, the candidate K.Shirisha Raju has come up with the second writ petition W.P.No.30046 of 2007 challenging the report of the Enquiry Committee of the University.

8. Therefore, the case of K.Shirisha Raju, petitioner in W.P.No.30046 of 2007 was also subsequently referred to Justice J.Kanakaraj (retired). After following a similar procedure as he had followed in respect of the other candidates, the Commissioner submitted a separate report dated 31.10.2007 in respect of this candidate.

9. After submitting copies of the reports of the Commissioner, to the learned counsel appearing for the petitioners, the learned Standing Counsel for the University (first respondent) and the learned counsel for the second respondent-College, we heard Mr.V.Prakash and Mr.K.Alagirisamy, learned Senior Counsel for the petitioners, Mr.Mani Sundar Gopal, learned Standing Counsel for the first respondent-University, Mr.T.R.Rajagopalan, learned Senior Counsel for the second respondent-College and Mr.P.Raja Kalifulla, learned Government Pleader.

10. As stated earlier, Justice J.Kanakaraj (retired) was appointed as a fact finding Commission, by consent of all the parties, to find out whether the petitioners applied for admission under the N.R.I quota and whether the petitioners produced the Community Certificates, which were found to be bogus by the competent authorities. After scrutinising the original admission records available in the University and after affording an opportunity of hearing to all the parties, the Commissioner gave his findings, in his report dated 15.11.2007. The findings were given by the Commissioner in the form of answers to the issues referred to him in paragraph-18 of the order of the learned single Judge passed on 19.7.2007. These findings are as follows:-

"a. The petitioner did apply only under the NRI quota and not under the SC/ST quota.

b. The petitioner never furnished any community certificate stating that he belonged to the SC Community.

c. The signatures of the petitioner in the undertaking and the application for eligibility certificate are denied as false by the student. But according to the SNCET they are only the petitioner's signature.

d. The inference to be drawn is that the community certificate was sent only by the SNCET and it was that community certificate which was found to be bogus by the Collector, on verification.

I have explained the case of the petitioner in W.P.No.11111 of 2004 in great detail because all the other cases are almost similar. It appears to me that the SNCET had indulged in the illegal activity of producing false certificates to the Anna University with the intention of filling the vacant seats and making more money and the student and his or her parents in their anxiety to get a B.E. Degree were only innocent victims."

11. The learned Senior Counsel appearing for the second respondent objected to the findings recorded by the Commissioner and contended that the second respondent-College admitted the students merely on the basis of the Certificates produced by them. In the light of the said objections, we also perused the documents enclosed to the report of the Commissioner independently.

12. Prima facie, the application forms submitted by the petitioners, at the time of seeking admission to the second respondent-College, themselves support the finding of the Commissioner. Out of 17 students, who are petitioners in these 18 writ petitions, one student (petitioner in W.P.No.11112 of 2004) is dead. In the application forms submitted by them to the second respondent-College, while seeking admission to B.E. Degree Course, all the petitioners herein, except the petitioner in W.P.No.13126 of 2004 (by name Sowmya Bolla), have indicated their community status in column No.6 of the printed application form, either as O.C. or as B.C. (Christian) or as just Christian. The petitioner in W.P.No.13126 of 2004 alone had put a tick mark in the box reserved for SC/ST in column No.6 of the application. Again she alone had put a tick mark in the box indicating "NO", in answer to the question in column No.16, as to whether she was claiming NRI quota seat. But all the other petitioners had put a tick mark in the box indicating "YES", in answer to the question in column No.16 of the application form.

13. Therefore, the Commissioner had rightly concluded that the petitioners did not apply for admission under the quota reserved for SC/STs, nor did they make any false representation in the application form, claiming to belong to SC or ST. On the contrary, the students had applied for admission under the NRI quota. Hence the findings recorded by the Commissioner, are perfectly justified.

14. In respect of the petitioner in W.P.No.13126 of 2004 (Sowmya Bolla), the Commissioner found that the application form was signed by her father and that the application form was accompanied by the T.C. (Transfer Certificate) from the Institution from which she completed the Intermediate Course. In the T.C., column No.5 contains a question as to "whether the candidate belongs to SCs/STs/Vimuktha Jathis or other socially and educationally backward classes specified in A.P.E.Rs or is he a convert from the SCs/STs if so, the particulars thereof". The candidate has drawn a blank line against this column. On the basis of this Transfer Certificate and on the basis of the fact that she hails from West Godavari District, the Commissioner found that the Community Certificate issued at Chennai, would not have been furnished by her. Therefore, we do not find that the said finding is perverse.

15. In view of the above, we are inclined to accept the findings of the Court appointed Commissioner, that the candidates (writ petitioners) did not furnish the bogus Community Certificates in question and that the candidates had applied under the NRI quota. Therefore, the petitioners are entitled to have the results of the examinations declared and they are also entitled to the issue of Degree Certificates, if they had passed the examinations.

16. Mr. Mani Sundar Gopal, learned Standing Counsel for the University submitted that the eligibility criteria for admission to the course, for Open Category (O.C.) candidates, was 60% in the Higher Secondary Course or equivalent examinations and that the petitioners did not satisfy the eligibility criteria. But the learned Senior Counsel appearing for the petitioners, brought to our notice, the Prospectus issued by the second respondent-College, which indicated 59.1% as the minimum marks required for admission of O.C. candidates to the course. However, the learned Senior Counsel appearing for the second respondent-College, disputed the correctness of the Prospectus produced by the petitioners. According to him, the Prospectus produced by the petitioners, related to another academic year and not to the academic year in which the petitioners were admitted.

17. But in our considered opinion, that question is of no consequence at this stage, for more than one reason namely,

(a) All the petitioners have now completed the course and some of them have secured high percentage of marks in the semesters for which, results have already been declared.

(b) All the candidates, except one, are from Andhra Pradesh and Kerala and they have applied for admission, upon seeing the advertisements in local newspapers and the Prospectus issued by the second respondent-College and they could not have known the eligibility criteria especially when they were enticed to join the quota for NRIs.

(c) The contention of the second respondent that the Prospectus produced by the petitioners related to some other academic year would not go to the rescue of the second respondent-College, since

it is pointed out by the Standing Counsel for the University that less than 60% was never prescribed as the eligibility criteria for any academic year in respect of candidates coming under the Open Category (O.C.).

Therefore, the question of eligibility cannot really deprive the petitioners of the relief that they are entitled to, on the basis of the above findings.

18. Coming to the last aspect of the case, namely, the course of action to be taken by the University, under such circumstances, it is seen that the second respondent-College is affiliated to the Anna University. The Anna University Act, 1978, as amended by the Anna University (Amendment) Act, 2001, empowers the Syndicate of the University under Section 30 to make, amend or repeal Statutes. Section 29 of the Act lists out the matters, which the "Statutes" may provide for. Clause (xvi-a) of Section 29 relates to "conditions of affiliation of Colleges to the University". By virtue of the said provisions, the Syndicate has issued "Statutes for Affiliation". Section 7 of the Statutes, prescribes the "Procedure for grant/withdrawal of Affiliation to a Programme". Statute No.7.9, reads as follows:-

"7.9 Suspension/Withdrawal of Affiliation of an Academic Programme:

The affiliation (provisional / permanent) granted to any academic programme(s) in a college may be suspended/withdrawn after adopting the procedures laid down in the Regulations, if the college fails to comply with the provisions made in this behalf or the college has failed to observe/implement any of the conditions of affiliation, or the college has conducted in a manner which is prejudicial to the interests of university education and/or students."

The "Regulations for Affiliation", issued in terms of the Statutes, prescribes the procedure for withdrawal of Affiliation, under Regulation No.26. Regulation No.26 reads as follows:-

"R 26. PROCEDURE FOR WITHDRAWAL OF AFFILIATION OF AN ACADEMIC PROGRAMME (vide Section 7.9 of the Statutes):

The University may withdraw the affiliation (provisional/permanent) of an academic programme(s) of a college, for such period that it may deem fit, provided there are proven evidences for gross violation of statutory requirements of affiliation norms and/or the college has conducted itself in a manner which is prejudicial to the interest of the University education as revealed after detailed inquiry conducted by a duly appointed committee by the University. The students on rolls are liable to be transferred to other affiliated colleges. No fresh students shall be admitted to that particular academic programme(s) by the college."

Therefore, it is open to the University to invoke the above provisions against the second respondent-College, since the University has an obligation, both statutory and social, to maintain standards and to observe discipline in the institutions affiliated to it. It is needless to point out that while initiating any such action, the University should follow the principles of natural justice.

19. In view of the above, all the writ petitions are allowed and the first respondent-University is directed-

(a) to permit the petitioners to take all examinations, which they have not so far taken;

(b) to declare the results of the examinations already taken by the petitioners, if the results of such examinations have not been declared so far;

(c) to issue provisional and degree certificates to all the petitioners, after they pass all the examinations; and

(d) to initiate appropriate action against the second respondent-College in accordance with the Statutes and the Regulations and also ensure that innocent students do not become victims, in future.

20. The writ petitions are allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

Svn

To

1. The Registrar,
Anna University,
Chennai.

2. The Chairman,
Sri Nandhnam College of Engineering and Technology,
Tirupattur 635 601.

3. The Controller of Examination,
Anna University, Guindy, Chennai.

4. The District Collector,
Rajaji Salai, Chennai.

5. The Director Academic course
Member of Enquiry Committee,
Anna University, Chennai 25.

6. The Controller of Examinations,
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7. The Liaison Officer,
Directorate of Tech-Education,
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8. The Director of Tamil Nadu Engg. Admissions,
Member of Enquiry Committee,
Anna University, Chennai 25.

9. The Legal Officer,
Member of Enquiry Committee,
Anna University, Chennai 25.

10. The Director Centre for Engineering Partnership
Member of Enquiry Committee,
Anna University, Chennai 25.

11. The Principal [Dr.M.A.Panneerselvam]
Jerusalem College of Engineering,
Member of Enquiry Committee,
Anna University, Chennai 25.

12. The Director Environmental Studies
Member of Enquiry Committee,
Anna University, Chennai 25.

13. The Director,
Student Affairs,
Member of Enquiry Committee,
Anna University, Chennai 25.

+ 2 CCs to Mr.Venkatesh Mohanraj, Advocate SR NO 70998 and 70999

+ 5 CCs to Mr.H.Karthik Seshadri, Advocate SR NO 71233

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