
(2011) 12 AP CK 0096

In the Andhra Pradesh High Court

Case No : Writ Petition No. 33807 of 2011

Brundavanam Gayathri

APPELLANT

Vs

Osmania University, Secunderabad and Others

RESPONDENT

Date of Decision : 27-12-2011

Acts Referred:

Academic Regulations — Regulation 5

Citation : (2012) 3 ALD 68

Hon'ble Judges : Noushad Ali, J

Bench : Single Bench

Advocate : B. Narasimha Sarma, for the Appellant; Deepak Bhattacharjee (SC for O.U.), Nos. 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

Noushad Ali, J.—The petitioner is pursuing Bachelor of Engineering (course) in Vasavi College of Engineering, Hyderabad, 3rd respondent herein. She has filed this writ petition seeking a mandamus to declare the action of the respondents in not permitting him to appear for 1st semester 2nd year examination on the ground of shortage of attendance, as illegal. Indisputably, the petitioner has put in only 44.6% attendance and by adding two weeks attendance permitted by the University by relaxation, she secured 61% attendance. She pleads that she could not make up the attendance due to the agitation (Sakala Janula Samme) and frequent disturbances in the city in support of demand for Telangana State, which resulted in the lack of transport facility from her residence to the college.

2. Attendance is an important factor in the maintenance of educational standards. Educational standards cannot be maintained unless a student attends the classes at least for a minimum period. The standards cannot be sacrificed on any pretext, much less on sympathetic considerations.

3. Therefore, in order to see whether the petitioner is entitled for condonation of shortage of attendance, it is necessary to examine the relevant rules.

4. The rules framed by the University, which govern the attendance, are as follows:

2. "A regular course of study" means putting in attendance of not less than 75% (80% in Teaching instructional period and 100% of attendance during period of practice teaching cum-internship of the B.Ed programme) of the lectures and practicals (wherever applicable) and this provision be enforced strictly.

3. (a) In special cases and for sufficient cause shown, the "Vice-Chancellor, may, on the specific recommendation of the Principal/Head of the Department, condone the deficiency in attendance to the extent of 10% (9% in the case of law courses) on medical grounds subject to submission of medical certificate and payment of condonation fee.

(b) However, in respect of women candidates who seek condonation of attendance due to pregnancy, the Vice-Chancellor may condone the deficiency in attendance to the extent of 15% (as against 10% condonation for others) on medical grounds subject to submission of medical certificate to this effect Such condonation shall not be availed twice during the course of study.

5. A perusal of the aforesaid rules clearly indicate that a student should put in 75% attendance. As noticed above, the petitioner has put in only 61%. The Vice-Chancellor of the University is competent to condone in special cases to the extent of only 10%, thus the petitioner should have 65% at least. The rules do not permit condonation of delay beyond 10% of shortfall. Further, Rule 8 stipulates that if a candidate fails to put in the required attendance, he shall be detained in the same class and will not be permitted to appear for the University examination and such a candidate shall have to seek readmission into the class during the subsequent year in order to complete the shortage in attendance and appear for the examination after fulfilling the attendance requirements. In view of the aforesaid mandatory provision, which has not vested any power in the authorities to condone the delay beyond 10%, there is no obligation on the part of the 1st respondent to consider the case of the petitioner.

6. As noticed above, the petitioner cites the agitations and disturbances in the city as a reason for her shortage of attendance and seeks to contend that the incidents being beyond her control is a relevant ground to condone the shortage on sympathetic grounds.

7. In Ashok Kumar Thakur Vs. University of Himachal Pradesh and Others, the apex Court while rejecting the plea of sympathy held as follows:

5. Considering that this case concerns the career of a young student we tried to look at the matter with all possible sympathy and consideration but we do not see how we can direct or compel an authority to do something which is beyond its legal competence to do. Since the Principal is the only authority who can condone and since it was beyond the competence to condone the shortage in question, we do not see how we can intervene in favour of the petitioner even if

the petitioner had succeeded in making out a case for condonation. In our opinion, the appeal must fail on this short point. Much as we regret the unfortunate fact that the petitioner is going to lose almost two precious years of his academic life we are in law bound to confirm the decision of the High Court, and dismiss the petitioner's appeal. We, therefore, do so. In the circumstances of this case, however we are making no order as to costs.

8. The Division Bench in B. Yugandhar Vs. Principal, Kuppam Engineering College and Another, considered similar provisions and noticing the judgment of the apex Court in A.K. Thakur's case (supra), held as follows:

(8) In view of the aforementioned judgments, it must be held that the Court cannot issue a judicial fiat to the respondents to admit the appellant in 1st Semester examination of the 4th year and thereby violate the mandate of Regulation 5 of the Academic Regulations.

(9) We are further of the view that even if the benefit of Regulation 5(ii) was to be extended to the appellant, he would not have been able to achieve the requirement of minimum 75% attendance in aggregate. Therefore, the learned Single Judge did not commit any error by refusing to entertain his prayer and we do not see any reason to differ with him.

9. The aforesaid judgments clearly held that the regulations do not provide for any condonation of attendance below 65% and no amount of judicial fiat or sympathy can give relief to the petitioner.

10. The learned Counsel for the petitioner however submits that another University viz., Jawaharlal Nehru Technological University (JNTU) by taking into consideration the disturbances has resolved to relax the shortage of attendance as a special case and allowing the students with 40% attendance to appear for the examination. The Counsel, therefore, submits that Osmania University to which the 3rd respondent-College is affiliated which is similarly situated has no justification in discriminating the students of its affiliated colleges by insisting for the requisite attendance.

11. I am unable to accept the said contention. Every University is autonomous which can adopt its own policies and standards, including prescription of attendance.

12. For the aforesaid reasons, the writ petition is devoid of merits and the same is accordingly dismissed. No costs. Consequently, WPMP No. 42041 of 2011 is dismissed as unnecessary.