
(2002) 04 AP CK 0110
In the Andhra Pradesh High Court
Case No : Writ Petition No. 79 of 2002

K. Pradeep

APPELLANT

Vs

Jawaharlal Nehru Technological University, Hyderabad and
Others

RESPONDENT

Date of Decision : 11-04-2002

Acts Referred:

Jawaharlal Nehru Technological University Academic Regulations — Regulation 5
University Grants Commission Act, 1956 — Section 2
University Grants Commission Regulations, 2010 — Regulation 3, 3(5)

Citation : (2002) 3 ALD 667 : (2002) 3 ALT 794

Hon'ble Judges : Ar. Lakshmanan, C.J;Gopalakrishna Tamada, J

Bench : Division Bench

Advocate : G. Jyothi Eswar, for the Appellant; C. Kondandaram, SC for JNTU and V.T.M. Prasad, for the Respondent

Final Decision : Dismissed

Judgement

A.R. Lakshmanan, C.J.—Heard Smt. G. Jyothi Eswar, the learned Counsel for the appellant, Sri C. Kodandaram the learned Standing Counsel for the Jawaharlal Nehru Technological University-1st respondent and Sri V.T.M. Prasad the learned Standing Counsel for SCR Engineering College-2nd respondent. This appeal is directed against the order passed by R. Ramanujam, J., in Writ Petition No. 24410 of 2001, dated 28-11-2001, on the ground that the appellant had not put in required attendance and, therefore, no positive direction could be issued to the respondents to permit him to appear for the examination.

2. The writ petition was filed by the appellant for a mandamus declaring the action of the SCR Engineering College in publishing the impugned circular dated 19-11-2001 detaining him from appearing for the first semester of III year B.Tech examination without computing the attendance of the appellant in sports classes as illegal, arbitrary and capricious. The appellant was studying in the III year B.Tech in 2nd respondent-college. Aggrieved by the action of the 2nd

respondent in detaining him vide memo dated 19-11-2001 for want of requisite attendance the appellant filed the writ petition. Before the learned single Judge it was argued that the appellant had put in 64% of attendance and thus the shortfall was only 1% and if the attendance in sports classes was taken into account there would be no deficiency. The learned Judge directed the learned Counsel for the appellant to place before him any rule or regulation authorising the college to take into account the attendance put in by a student in sports classes. However, the learned Counsel for the appellant frankly submitted before the learned single Judge that there is no such rule. Therefore, in the absence of any such rule, which authorizes the college or the University to take into account the attendance put in by a student in sports classes the learned Judge was of the view that no positive direction can be issued to the respondents to permit the appellant to appear for the examination. Aggrieved by the said order the present appeal has been preferred.

3. The learned Counsel for the appellant reiterated the submissions made in the writ petition and also further requested that this Court should take a lenient view considering the facts and circumstances of the case and that the shortage is only 1% and, therefore, this Court should issue a direction to the college in question to condone the same and permit the appellant to appear for the semester in question. We are unable to countenance the said submission. Though it is argued by the learned Counsel for the appellant that sports classes are also included in the course and therefore the action of the respondents in not including the attendance in the said classes is illegal and arbitrary, the said submission cannot be countenanced for want of any proof. The appellant submitted a representation to the authorities on 28-11-2001 stating that he was unable to attend the classes regularly due to ill-health and consequently the attendance fell short of 65% and that though he attended the sports classes the same was not included while computing his attendance, The said representation was made pursuant to the direction issued by the learned single Judge. The 2nd respondent considered the said representation and passed an order by its proceedings dated 29-11-2001 which reads as follows:

4. Mr. K. Pradeep, B.Tech Third Year, CSE student is informed that after taking into consideration of (1) the instructions issued in WP No. 24410 of 2001 dated 28-11-2001 of Hon'ble High Court, Andhra Pradesh, Hyderabad (2) the representation of the candidate (Mr. K. Pradeep) and (3) the report of the three man committee which was constituted to verify his attendance particulars, his representation to permit him to appear for B.Tech CSE third year -first semester cannot be allowed since he put in only 64% attendance against the stipulated attendance of 65% as per JNTU norms.

5. The learned Counsel for the University, at the time of hearing, drew our attention to regulation 5 of the Jawaharlal Nehru Technological University Academic Regulations. Regulation 5 deals with attendance which runs as follows:

Attendance:

- i. A student has to put in a minimum of 75% of attendance in aggregate of all the subjects for acquiring credits in the I year and/or each semester thereafter.
- ii. Condonation of shortage of attendance in aggregate upto 10% (65% and above and below 75% in each semester or I year may be granted by the College Academic Committee.
- iii.

6. The said regulation stipulates minimum of 75% of attendance in aggregate of all the subjects for acquiring credits in the I year and/or each semester thereafter. Clause (ii) of regulation 5 says that the condonation of shortage of attendance in aggregate upto 10% (65% and above and below 75%) in each semester of I year may be granted by the college academic committee. Clause (iii) of Regulation 5 says that a student will not be promoted to the next semester unless he satisfies the attendance requirement of the present semester/ I year. Note (a) to Regulation 5 specifically provides that shortage of attendance below 65% in aggregate shall in no case be condoned and note (b) provides that the students whose shortage of attendance is not condoned in any semester are not eligible to take their examination of that class and their registration shall stand cancelled and they may seek readmission for that semester when offered next. In the instant case though a representation was made by the appellant pursuant to the direction issued by the learned single Judge the Principal of the college refused to condone the shortage of attendance. Even according to the appellant he could not secure the required attendance and could not attend the classes because of his ill health. Since the regulation specifically provides that shortage of attendance below 65% in aggregate shall in no case be condoned, this Court cannot compel either the University or the college in question to condone the shortage. A Division Bench of this Court in the judgment reported in *Akilesh Lumani and others Vs. Principal, Sir C.R. Reddy Autonomous College, Eluru*, has observed as follows:

Undisputedly, the college is a University within the inclusive definition of that term u/s 2(f) of the University Grants Commission Act, 1956.....Section 26(9) of the Act gives power to the Commission to make regulations for maintaining the minimum standard of instruction for the grant of any degree by any University. As per Section 14 of the Act Such regulations are binding on all the Universities and Autonomous Colleges. In exercise of the said power, the Commission has framed the UGC Regulations. Regulation 3 thereof deals with working days. Sub-regulation (5) of Regulation 3 stipulates the minimum number of lectures which a student shall attend to make him eligible for appearing at the examinations.....

A plain reading of the aforesaid regulation makes it abundantly clear that the minimum number of lectures, tutorials, seminars, practicals etc., which a student is required to attend to make him eligible for appearing at the examinations shall not be less than 75% of the total number of lectures and no University or College can prescribe a lesser minimum than that. It is, however, open for the College or

University concerned to prescribe a higher percentage of minimum number of lectures etc.

The aforesaid requirement prescribed by the Commission, in our considered view, is not a salutary one but also an essential one. It is well recognised, since ages, that a student can never get complete education by merely reading the text books sitting at home under a personal tutor. For the all-round development of one's personality it is essential that one should attend an educational institution, call it by any name Gurukulam, Madrasa, or College, along with other students who come from various cross-section of the society. This was the reason that why the great Kings and Emperors of this country always sent their sons to the Gurukulas headed by famous Masters, who were residing mostly in the deep forests. The Princes were made to sit along with the other common students, work along with them and serve the Master like the other commoners. Even Lord Krishna, who was the depository of all knowledge had to attend the Gurukulam headed by that Great Teacher Sandipani along with others including the poor Kuchela. It is also well recognized that learning by attending the college, unlike learning from books, will broaden the vision of the students and develop a sort of camaraderie amongst them, which is very essential for understanding the intricate problems of the country and for its good governance. That apart, the job of a lecturer is not only teaching the subject but also to help the student in the full development of his personality. This will only be possible if a student attends the lectures regularly, enabling the teacher to constantly watch his performance and guide him in the right direction. Thus, attending the College or an educational institution, regularly, is an essential element of education, which will be lost if a student fails to attend a minimum number of lectures.

7. In the instant case as the appellant has not secured the required attendance to make him eligible for appearing at the examination, this Court cannot issue a mandamus as prayed for. In our opinion the requirement prescribed by the University is not only a salutary one but also essential one and that attending the college or educational institution is an essential element of education.

8. Though a request was made by the learned Counsel for the appellant that the college may be directed to give remission in regard to payment of fee as it is not within our ambit such a prayer cannot be countenanced.

9. The writ appeal is accordingly dismissed.