
(2003) 04 AP CK 0006

In the Andhra Pradesh High Court

Case No : Writ Petition No. 6493 of 2003

Krishna Dutt Rathod

APPELLANT

Vs

Registrar, JNTU and Another

RESPONDENT

Date of Decision : 10-04-2003

Acts Referred:

Revised Academic Regulations — Regulation 5

Citation : (2003) 6 ALD 9

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : P. Vinod Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

V.V.S. Rao, J.—The petitioner joined First Year B.Tech (E.E.E.) Course in the 2nd respondent - College in September, 2002. He attended the classes till January 2003. During Sankranti vacation, he went to his native place where it appears that he suffered with Jaundice and he took treatment till the end of March 2003. By reason of this, he could not attend to classes as required. Therefore, he did not put in the required percentage of attendance. On 30-3-2003, he approached the second respondent for payment of examination fee but the same was refused. He was informed by the 2nd respondent that due to shortage of attendance he cannot be permitted to attend the final examination of First Year B. Tech., Course scheduled to commence on 21.4.2003. Therefore, he filed the present writ petition for a writ of mandamus directing the second respondent to accept the examination fee and to permit him to appear for the final examination of First Year B. Tech. (E.E.E.) Course.

2. Regulation 5 of the Revised Academic Regulations for B. Tech (Regular) Four Year Degree Course reads as under:

5. 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 up to 10% (65% and above and below 75%) in each semester of I year may be granted by the College Academic Committee.

iii. A student will not be permitted to the next semester unless he satisfies the attendance requirement of the present semester/I year.

Note:

a. Shortage of Attendance below 65% in aggregate shall in no case be condoned.

b. Students whose shortage of attendance is not condoned in any semester/I year are not eligible to take their end examination of that class and their registration shall stand cancelled. They may seek re-admission for that semester/I year when offered next.

c. Condonation of shortage of attendance as stipulated in 5(ii) above shall be granted on genuine and valid grounds with supporting evidence.

d. A stipulated fee shall be payable towards condonation of shortage of attendance.

3. It is not denied before this Court that the petitioner has not even put in 65% of attendance. It is however contended that in the peculiar facts and circumstances of the case notwithstanding the law declared by the Supreme Court in *Maharshi Dayanand University Vs. Dr. Anto Joseph and Others*, as well as the decision of the Division Bench of this Court in *K. Pradeep Vs. Jawaharlal Nehru Technological University, Hyderabad and Others*, , the petitioner's case may be considered as he did not on his own volition absent from attending the classes.

4. It is well settled that the Regulations for a course have to be strictly interpreted. This is especially in relation to attendance. Regulation 5 requires 75% attendance and empowers condonation of shortage of attendance by the College Academic Committee in aggregate up to 10%. In other words, a student who has put in minimum of 65% of attendance on a proper application being made and paying the necessary fee can be allowed for sitting the examinations. If the attendance falls below 65%, no such indulgence can be shown. When the statutory power does not empower condonation, any writ of Mandamus directing the authorities to permit the petitioner to appear for examination notwithstanding the fact that he did not put in minimum 65% would amount to issuance of Mandamus contrary to law. It also amounts to directing the authorities to act contrary to law. Such a writ cannot be issued (See *Brij Mohan Parihar Vs. M.P. State Road Transport Corporation and Others*, , *Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another*, and *Sri Narasimha Wines and Others Vs. The Proh and Excise Superintendent and Others*,).

5. In *K. PRADEEP v. JAWAHARLAL NEHRU TECHNOLOGICAL UNIVERSITY, HYDERABAD AND OTHERS* (supra), this Court after considering Regulation 5 of the JNTU Regulations and after referring to the decision of *Akilesh Lumani and others Vs. Principal, Sir C.R. Reddy Autonomous College, Eluru*, laid down as under:

"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 up to 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 instance 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."

6. In *MAHARSHI DAYANAND UNIVERSITY v. DR ANTO JOSEPH* (supra) the Supreme Court held that when there is a shortage of attendance interference by the Court is not called for. It was further observed as under:

"We might not have interfered had this been an isolated case but we find from reading the orders which have been placed on the record that though the impugned order stated that it was not to be treated as a precedent, it has been followed repeatedly by the High Court and by courts below. It appears then that it is necessary to interfere to uphold the sanctity of the requirements of the Medical Council of India and the University. These requirements are laid down to ensure that the full period of training necessary for acquiring the qualification is completed and it is in the public interest that they are not lightly deviated from."

7. The petitioner admittedly does not have 65% attendance. Notwithstanding the genuine cause the petitioner may have for not attending the classes, the writ petition cannot be entertained. The writ petition fails and is accordingly dismissed at the admission stage.