

(1999) 09 AP CK 0058

In the Andhra Pradesh High Court

Case No : CC No's. 1844 and 2105 of 1998 and WP No. 29673 of 1998 and Batch

Md. Saleem and others

APPELLANT

Vs

R. Ramarao

RESPONDENT

Date of Decision : 01-09-1999

Acts Referred:

Constitution of India, 1950 — Article 14
Engineering Examinations Rules — Rule 66
University Grants Commission Act, 1956 — Section 12(4), 24, 25, 26(1), 28

Citation : (1999) 6 ALD 387 : (1999) 5 ALT 578

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : M/s. V.S.R. Anjaneyulu, C. Kodandaram, S. Srinivasa Murthy, Y. Visweswara Rao and B.V. Subbaiah, for the Appellant;

Judgement

1. In all these matters the issue that cropped up for decision being common, they can be disposed of by a common judgment.
2. In these cases the Court is called upon to adjudicate whether a student can seek writ of mandamus against the authorities concerned to permit him to appear for the examinations without putting the required attendance, either on the ground of existence of legal right or violation of equality clause enshrined in Article 14 of the Constitution of India or on the ground of legitimate expectation.
3. Though the issue is squarely covered by a judgment of a Division Bench of this Court in The Principal, Siddhartha College of Pharmacy, Vijayawada v. K.V. Narayana Raju and another, WA No.522 of 1999, dated 6-4-1999, in K. Prashant and others v. Andhra University, WP No.34780 of 1998, dated 17-2-1998, in K. Venkata Romania v. Andhra University and another, in WP No.20644 of 1998, dated 2-12-1998 and in Sri Garlapati Sreevardan v. The Registrar Andhra University and another, in WPMP No.12916 of 1999 in WPNo.22954 of 1998, dated 10-6-1999, as the contentions raised by the Counsel in this Batch of cases

were adverted to, I heard the arguments at length and proposes to deliver a detailed judgment touching various contentions raised by the petitioners, to put an end to the controversy once for all.

4. Contempt Case No. 1844 of 1998 was filed contending that the order of this Court in Writ Petition No.9865 of 1998 and Batch, dated 16-9-1998 is not implemented by not declaring the results of the petitioners in Writ Petition No.9865 of 1998, dated 16-9-1998. They also filed Writ Petition No.29673 of 1998, questioning the action of the respondents in not permitting them to prosecute their studies for the next academic year and this Court while admitting the writ petition by order dated 27-10-1998 in WP MP No.36287 of 1998, permitted the petitioners to prosecute their studies in the promotional classes. Subsequently, the writ petition came up for hearing before me and having heard the matter on different dates and as the writ petition could not be disposed of, by order dated 23-3-1999, I directed the respondent college to permit the petitioners to appear for the examinations if they have put in the minimum percentage of attendance required under the Rules, subject to the condition that they cannot claim any equities on the ground of appearing for the examinations, if ultimately the result in the writ petition goes against them. At the same time, I directed the respondents not to declare the results of the petitioners until further orders.

5. The case of the petitioners in the Contempt Case as well as the writ petition is that they are all II year and III year students of various degree courses that are being imparted in the respondent college and for the academic year 1997-98 they were not permitted to sit for the examinations at the end of the academic year by affixing a notice in the notice board just before commencement of the examinations having received the examination fee, on the ground that they have not put in the required minimum of 66% attendance for that year and in those circumstances, they filed Writ Petition No.9865 of 1998 and under the interim orders of this Court they appeared for the examinations. Subsequently, this writ petition along with a Batch of writ petitions filed by the students studying not only degree courses (graduation) but also Engineering and Law Courses in the colleges that are being run by C.R. Reddy Institution, Eluru, came up for hearing before Justice S.S. Hussaini, as His Lordship then was and by a common order they were disposed of by directing the petitioners to file individual representations before the respondents as per procedure prescribed, within a period of ten days from that date and the Principals of the colleges were directed to forward the same to the University as per rules. A further direction was given to the University to consider the requests of the petitioners for condonation of shortage of attendance and pass appropriate orders within a period of two weeks from the date of receipt of a copy of the order as was done in the case of other students. If shortage of attendance of the students is condoned, the respondents are directed to declare the results of them who appeared for the respective examinations for the academic year 1997-98, in pursuance of the interim orders of this Court. His Lordship further observed that even if the petitioners do not

qualify in the qualifying examination, they are permitted to prosecute their studies for the next academic year if the same is permissible under the rules and regulations.....

6. It is their further case in the contempt case that the Principal of the respondent college - C.R. Reddy College, by his Proceedings dated 17-10-1998 condoned the shortage of attendance for the petitioners for the reasons given therein and also conveyed the decision to the students by proceedings of even date that he decided to permit the students to the next year classes i.e., 1st year students to 2nd year and 2nd year students to 3rd year, and having condoned the shortage of attendance, the respondents failed to declare the results of the students in accordance with the directions of this Court. Hence, the action of the respondents amounts to wilful disobedience of the orders of this Court and they are liable to be punished according to law.

7. During the pendency of the above contempt case, they filed Writ Petition No.29673 of 1998, by contending that they are not being permitted to prosecute their studies in promotional classes and under the interim orders they not only attended the classes but also appeared for the examinations.

8. In the counter filed on behalf of the contemnor in the contempt case, it is stated that the Executive Committee of Andhra University to which the college is affiliated has resolved at its meeting held on 20-10-1998 to follow the rules relating to attendance strictly and while the Governing Body has to meet on 21-10-1998, the then incharge Principal one Sri D.V.R.K. Prasad by his Proceedings dated 17-10-1998 has taken a decision to condone the shortage of attendance and having communicated the same to the petitioners, he received demand drafts from the students to permit them to appear for the examinations and also to promote them to the next higher class without even obtaining the approval of the Academic Council in its meeting scheduled to be held on 21-10-1998. As the action of the in-charge-Principal is in contravention of the rules the Governing Body relieved him of his duties and a new incumbent was appointed in his place. The new incumbent having realised that the decision of his Predecessor is contra to the rules and with a view to curb the evil practice of the students in not attending the classes, decided not to implement the decision of the then Principal dated 17-10-1998. However, as per the directions of this Court, the students were permitted to attend the classes. In the counter, it was also stated that the management has initiated disciplinary proceedings against the said Principal for acting in contravention of the rules and dragging the college into litigation before the Court of law. He also stated that the college also filed petition for vacation of the interim orders - WV MP No.29673 of 1998. In the light of the facts stated above, the contempt case is liable to be dismissed.

9. The Counsel for the petitioners raised various contentions in support of the claim of the petitioners and they will be dealt with in seriatam.

10. Firstly, it is the contention of the petitioners that the college being an

autonomous one and no rules have been framed by the college with regard to the attendance to be put in by the students to get eligibility to appear for the examination, the respondent cannot stop the petitioners from writing examinations, in the light of the judgment of this Court in Writ Petition No.9865 of 1998 and Batch, dated 16-9-1998. In other words, a legal right has accrued to them under the judgment of this Court, and the action of the respondents in not permitting them to write the examinations is illegal. In support of the above contentions, the Counsel for petitioners relied upon a communication from the Registrar, Andhra University in his Utter No.C.III(5)/CONDO of 1998, dated 3-10-1998, wherein the Registrar informed the Principal that theirs being an autonomous college the decision in the common judgment of this Court dated 16-10-1998, has to be taken into consideration by him only with regard to degree college students and contended that the Principal having received the said communication, after convening a meeting of the Head of the Departments on 16-10-1998, who authorised him to take a decision on the issue of detention of students as per the judgment of this Court, passed orders on 17-10-1998 condoning the shortage of attendance, and the same was impliedly approved by the Andhra University. Hence, they cannot take a contra stand. This benefit was also extended not only to the students covered by the writ petition but to all the students who did not put in the required percentage of attendance in the degree courses. The petitioners now contend that as the competent authority has taken a decision to condone the shortage of attendance, the successor in office cannot take a contra stand. In fact, in the counter filed by the management in Writ Petition No.36164 of 1998 it was categorically stated that the power to condone the shortage of attendance rests with the Principal. Hence, the college cannot take a contra stand stating that the decision of the Principal is contrary to the rules.

11. Even assuming without admitting that the college is enjoying the autonomous status as per the guidelines of the U.G.C., it has to be seen that in the Calendar for the Academic year 1997-98 published by the respondent college under the caption "Attendance" Clause 1, says that each student is required to attend punctually at the stated hours to lectures and practical classes, Clause 2, says that every student must attend atleast 75% of the lecture classes and in case of Science 90% of, Practical Classes enable him to obtain certificate of attendance. Clause 2(a) says that absence of student without leave for any single hour in a session results in the loss of attendance for the whole session. In para-3 under sub-clause 2(b) it is clearly stated that names of the students who are absent for more than ten days without leave continuously shall be struck off from the rolls. The name of a student may also be struck off from the rolls if he is found to be irregular or if he is absent for more than 25% of the working days in a term or a Semester.

12. It is not the case of the petitioners that they were not furnished with the calendar 1997-98 and they are not aware of the rules framed by the college, relating to the attendance to be put in by them while pursuing their studies.

Further, the University Grants Commission in exercise of its powers conferred u/s 26(1)(f) of the Act made regulations and published the same on 25-11-1985 in its Circular No.F. 1-117/83 (CP). In para No.3, the minimum teaching days shall be not less than 180 days in an academic year. Sub-para 5 of Para No.3, is relevant to decide the issue in controversy and it is useful to extract the same:

"(5) Minimum number of lectures, tutorials, seminars, practicals etc., which a student shall be required to attend before being eligible for appearing at the examinations shall be as prescribed by the University which, on an average, shall not be less than 75% of the total number of lectures, tutorials, seminars, practicals etc."

13. From this it is seen that a student is required to attend before being eligible for appearing for the examinations not less than 75% of the total number of lectures, tutorials, seminars, practicals etc. Though the learned Counsel tried to contend that these regulations cannot have the force of law as the same were neither published in the Gazette nor placed before the Parliament as required under Sections 25 and 28 of U.G.C. Act, he did not produce any evidence in support of his contention that these regulations were neither published in the Gazette nor placed before the Parliament. The presumption is that all official acts are done in accordance with law until and unless contrary is proved by the party who alleges that those acts were not done as per law. In fact, these regulations were made by the U.G.C. in exercise of its powers u/s 26(1)(f) of the Act and the Court has no reason to believe that these regulations which came into force on 25-11-1985 were neither published in the Gazette nor placed before the Parliament, all these years. Hence, the regulations made by the U.G.C. as well as the Calendar published by the college makes it abundantly clear that a student has to put in not less than 75% of the attendance to become eligible to appear for the examination as prescribed by the University. Hence, there is no force in the contention of the petitioners that under no law they are required to put in a minimum percentage of attendance to become eligible to appear for the examination. Accordingly, this contention is rejected.

14. Nextly, it is contended that even till this date, the order of the Principal dated 17-10-1998 was neither withdrawn, cancelled nor superceded by any subsequent order, except stating in the counter in the contempt case that to curb the evil practice of not attending the classes by the students, the decision of the then Principal dated 17-10-1998 was not implemented. They also contended that the decision of the Governing Body was not made known to them even till this date.

15. I have no hesitation to reject this contention in the light of the view taken by me that the instructions given by the U.G.C. in its circular as well as the Calendar published by the college for the year 1997-98, one has to put in a minimum of 75% attendance to get eligibility to appear for the examinations to be conducted by the University. As the decision of the Principal runs counter to the regulations as well as the instructions published in the Calendar, the action of the successor to the office of the Principal in not implementing the decision of the then Principal

dated 17-10-1998 is perfectly in order, whether the Governing Body of the college passed any resolution or not, more so, when disciplinary proceedings were initiated against him for issuing the above order.

16. They nextly contended that as the college being autonomous, the decision of the Executive Council of the Andhra University dated 20-10-1998 cannot be made applicable to the students studying degree courses in the respondent college.

17. I do not find any force in this contention. Admittedly, even according to the petitioners, though the college is enjoying the autonomous status, the students of this college are directed to take examinations to be conducted by the Andhra University for the purpose of conferring degrees. When once the students are expected to take examinations to be conducted by the University, then they should abide by the rules and regulations framed by the University to get eligibility to appear for the examinations that are being conducted by the University. Hence, this contention of the petitioners is also rejected.

18. Nextly, it is contended that even assuming without admitting that the respondent college is bound by the decision taken by the Executive Council of the Andhra University, the same cannot have any legal sanctity as the Academic Senate is alone competent to make regulations regarding the conduct of examinations and the conditions on which the students shall be admitted to examinations for the courses of the University u/s 25(j) of the A.P. Universities Act (for short "the Act") -ActNo.4 of 1991. As the decision was not taken by the Academic Senate constituted u/s 24 of the Act, the same cannot be given affect to. u/s 55(1)(c) of the Act, regulations made by the Academic Senate have to provide provisions for the University courses and examinations and the conditions on which students shall be admitted to the examinations for degree, diplomas, certificates and titles of the University.

19. As no regulations were made by the Academic Senate with regard to the conditions on which the students shall be admitted to the examinations for degree courses and even as the Academic Senate has not taken the decision as required u/s 25(j) of the Act, the decision of the University dated 20-10-1998 is to be declared as ab initio void.

20. It is true that though the Andhra University is a Premier University in the State of Andhra Pradesh and it is more than 100 years old, the Academic Senate seemed to have not made any regulations with regard to the conditions on which a student shall be admitted to examinations in the course. It reflects the sorry state of affairs prevailing even in the institutions of higher learning. But, at the same time, it is seen that the Academic Senate was passing resolutions from time to time on this aspect. The Academic Senate/Council, at its meeting held on 29-3-1986 issued guidelines with regard to attendance to be put in by each of the students, of-course, the resolution states that it is meant for two years i.e., 1985-86 and 1986-87. In this resolution it is categorically stated that a student

should necessarily put in 75% attendance to become eligible to take the University examination and a provision was made for condonation of shortage of attendance in special cases at the discretion of the Vice-Chancellor by 9% if the reasons given are considered satisfactory and if the Principal of the college recommends that the student is academically fit to take the examination even though he is short of attendance. The resolution categorically stated that "in no case condonation will be granted if the attendance fall below 66%". It is the case of the Counsel for the University that this resolution is being followed all these years scrupulously and no deviation was made at any point of time. The Counsel for the University produced another Circular No.C-III(5)/CONDO/PG & PROFWS/9596, dated 29-3-1996 issued by the Registrar on the subject of condonation of shortage of attendance for the students studying in the University colleges and Post Graduation Centres to the same effect. Though the circular did not state that it applies to the students studying in the affiliated colleges, the mind of the University on this subject can be inferred.

21. From this it is seen that the University is insisting for a minimum attendance to be put in by each of the students to get eligibility to sit for the examinations to be conducted by the University. Though the college is enjoying autonomous status, as per the permission given by the U.G.C., the college is affiliated to Andhra University and the students studying in this college has to take examinations to be conducted by the University which alone is competent to confer degrees, diplomas etc. Hence, the University itself is competent to prescribe the conditions on which it can permit the students to be admitted to examinations for the degrees etc. Hence the respondent college and the students studying in it are bound by the regulations prescribed by the University to get eligibility to appear for the examinations to be conducted by the University for the purpose of conferring degrees.

22. The Counsel for the petitioners makes a grievance that as the Academic Senate has not passed any regulation, the resolutions adopted by the Executive Council have no legal sanctity.

23. I am afraid, I cannot agree with this contention of the Counsel for the reason that way back in the year 1967, the Constitutional Bench of the Supreme Court in *Sant Ram Sharma Vs. State of Rajasthan and Another*, held that in the absence of any statutory rules and regulations, the authorities concerned can always rely upon the Executive power vested in them for carrying out the purpose of the Act and can fill up the gaps when the rules are silent. In an unreported judgment of this Court in WP No.2935 of 1968, dated 5-6-1969, Justice Chennapa Reddy as His Lordship then was ruled that the directions given by the Government in exercise of its executive power have statutory force. Hence, the resolutions adopted by the Executive Council/Academic Senate as the case may be, from time to time in the absence of any regulations in that regard, have the force of law and they have to be complied with by all the concerned in their true spirit.

24. The other contention raised by the Counsel for the petitioners is that the resolution dated 20-10-1998 stating that the rules relating to the attendance have to be strictly followed is by a Committee constituted by the Vice-Chancellor but not by Academic Senate as contemplated u/s 25(j) of the Act.

25. I have already referred to the resolutions that are being adopted by the Executive Council with regard to condonation of shortage of attendance from time to time. In this case, in the light of the orders passed by this Court on 16-10-1998, the Vice-Chancellor in exercise of the powers vested in him u/s 12(4) of the Universities Act constituted a Committee to consider and take a decision on the representations filed by the petitioners in the light of the resolutions of the Executive Council and the Committee's recommendation has been accepted by the Vice-Chancellor. As per the resolution adopted by the Committee, results of the students who have not put in minimum of 66% of attendance as required under the resolutions of the Executive Council of the Andhra University and as the Committee considered the representations in the light of the resolutions adopted by the Executive Council, with regard to the attendance to be put in by the students, neither any illegality nor any irregularity has been committed by the Committee in taking the decision, more so, after the Vice-Chancellor ratified the decision of the Committee.

26. Nextly it is contended that the University itself condoned the shortage of attendance in case of four students i.e., Mr. D. Raghavendra Naik, Mr. M.V. Raghava Rao, Ms. P. Rajini and Mr. A. Suryakiran who were the students of Engineering College and who did not secure 66% minimum attendance and refused to extend the same benefit to the petitioners who are similarly situated and as such the action is in violation of Article 14 of the Constitution of India.

27. This argument was advanced by the Counsel for the petitioners basing on a letter written by the Principal of Engineering College to the Principal of this college on 9-10-1998 stating that in case of Sri D. Raghavendra Naik, who has put in 44.5% attendance the University condoned the shortage of attendance by its letter No.C.III(5)/CONDO/97-98, dated 18-7-1998.

28. The respondents in their counter stated that as far as Mr. Raghava Rao is concerned, though the Principal initially stated that he secured only 46.7% of attendance, on a representation made by the student, he himself sent a report stating that Mr. Raghava Rao has put in 78.57% of attendance. It is not the case of the petitioners that shortage of attendance was condoned in case of the above student.

29. Coming to Mr. Raghavendra Naik and Ms. P. Rajini, the respondents stated that before the matter was decided by the Committee constituted by the Vice-Chancellor, the Controller of Examinations has condoned the shortage of attendance on his own without the knowledge of Registrar or Vice-Chancellor and if the Court directs they are prepared to cancel the proceedings issued by the Controller of Examinations in case of those two individuals. As far as Mr.

Suryakiran is concerned they admitted that after the resolution was passed as a special case the shortage of attendance for him was condoned on the ground that he had a good academic performance throughout and due to prolonged illness and hospitalisation of the mother of the student, who ultimately died during January, 1998 he could not attend the college, that too on production of medical certificate of illness and death of his mother and the same cannot form basis for these petitioners to claim condonation of shortage of attendance who did not attend the college for no reason.

30. Hence, in the light of the peculiar circumstances in which the candidate was placed, though the University is not expected to condone the shortage of attendance, as per the resolutions of the Executive Council, I cannot set aside the action of the University in his case. Likewise, the action of the Controller of Examinations in condoning the shortage of attendance in case of Sri Raghavendra Naik and Ms. P. Rajini cannot form basis for the petitioners to claim similar relief on the ground that they are also similarly placed as that of the above two individuals. Further, the action of the University cannot be set aside by me as these three individuals were not impleaded as party respondents and no opportunity was given to them to put forth their case. Further one must prove that a legal right was accrued in his favour and the same has been violated by the authorities concerned to invoke the jurisdiction of this Court. Further, issuance of writ of mandamus is purely within the discretion of the Court, I am not inclined to exercise the same for an un-holy cause, *moreso*, in the light of the judgments of this Court referred at the threshold of the judgment.

31. Lastly, the petitioners contend that the respondents detained them without putting them on notice and the same is vitiated on the ground of not observation of principles of natural justice.

32. As stated *supra*, the petitioners were made known at the time of their admission by furnishing a copy of the calendar 1997-98 to them that they have to put in minimum required attendance to get eligibility to appear for the examinations and as such the question of issuance of a further notice and observation of principles of natural justice does not arise.

33. The Court feels that, apart from the legal niceties involved in this controversy, the fixation of minimum attendance to be put in by the student to appear for the examination is having a salutary purpose and effect on the student community. A student who is prosecuting higher studies of learning is expected to be diligent in prosecuting his studies and in attending the lectures and practicals not only for writing examinations but also to acquire knowledge and proficiency in the subject, which will be of immense help/use to the student when he comes out the portals of the University. A student who failed to put in minimum percentage of attendance can neither know the subject nor will be in a position to acquire any knowledge even if he is allowed to sit for the examinations and pass the same by adopting known and unknown means. Further, by insisting minimum attendance in the class, the authorities can put an

end to the fast developing evil practice in the student community i.e., not attending the class/college and spending the time elsewhere apart from adicting to bad habits. Further, it enables the teacher to constantly observe a student and mould his career in the right direction.

34. Lastly, as per the directions of this Court, the University has taken a decision by its resolution dated 20-10-1998 and as such the petitioner cannot complain that the order of this Court is violated by the authorities concerned by filing a contempt case. If they are aggrieved by the decision of the University, it is open to them to file a separate writ petition questioning the same.

35. I have gone into the merits of this contempt case, in the light of the writ petition filed by the petitioners i.e., WP No.29673 of 1998 and also due to the pendency of other writ petitions filed by the students who are similarly placed as that of the petitioner, I do not find any merits in these petitions and accordingly they are dismissed.

36. In the light of the view taken by me at the controversy cropped up in this Batch of cases Writ Petition No.29673 of 1998 filed by the petitioners questioning the action of the respondents in not permitting them to prosecute their studies in the next academic year has also to fail. Accordingly, this writ petition is also dismissed.

CC No.2105 of 1998 and WP No.27811 of 1998. 27068 of 1998 and 17888 of 1999:

37. The petitioner studying III Year Mechanical Engineering, filed this contempt case by contending that pursuant to the orders of this Court in Writ Petition No.20456 of 1998, which was disposed of along with Writ Petition No.9865 of 1998 by Justice S.S. Hussaini as His Lordship then was, dated 16-9-1998, he filed an application before the University on 17-12-1998 and no orders were passed by the authorities on his application. The inaction on the part of the respondents is costing his academic year. Hence, he prays that the respondents may be dealt with in accordance with law for not implementing the orders of this Court in Writ Petition No.20456 of 1998, dated 16-9-1998. Likewise, another student Mr. Parvathaneni Rajendra, studying III Year Electronics Engineering filed Writ Petition No.27068 of 1998 questioning the inaction on the part of the respondents in not implementing the orders of this Court in Writ Petition No.20460 of 1998, dated 7-8-1998, wherein this Court directed him to submit a detailed representation to the University within a period of two weeks, for claiming exemption or relaxation of the concerned rules and the University was directed to consider the said representation and dispose of the same in accordance with rules. As per that judgment he filed a representation on 28-8-1998 and the University did not pass any orders. Hence, the writ petition.

38. This Court while admitting the writ petition by order dated 25-9-1998 in WP MP No.32913 of 1998 permitted the petitioner to attend IV year classes pending further orders that are to be passed by the 2nd respondent on his application

dated 28-8-1998. Another student Mr. K. Rajesh studying III Year Mechanical Engineering filed Writ Petition No.17888 of 1999 seeking declaration of the Minutes of the meeting of the Committee constituted by the Vice- Chancellor, Andhra University, held on 20-10-1998 and the 2nd communication of the Registrar in his letter dated 26-10-1998 is illegal apart from being contrary to the directions of this Court in Writ Petition No.20456 of 1998, which was disposed of along with Writ-Petition No.9865 of 1998, dated 16-9-1998.

39. Sri V.S.R. Anjaneyulu, Counsel appearing for the petitioners in all these cases raised the self-same contentions that were answered in the Contempt Case No. 1844 of 1998 and WP No.29673 of 1998. The reasons given by this Court on the contentions raised in the said case are equally applicable in this case also. The only difference being that while the Degree College is enjoying autonomous status, no such status was conferred on the Engineering College run by C.R. Reddy Educational Society. Accordingly, the contempt case and the writ petitions are dismissed as they are devoid of merits.

WP No.22954 of 1998:

40. The petitioner in this writ petition having secured a seat in Computer Engineering during the academic year 1997-98 under N.R.I, quota, filed this writ petition questioning the action of the respondents in not permitting him to appear for the I Year Engineering examinations on the ground that he secured only 38.59% attendance, and the grounds raised by him are almost identical to the contentions raised by the petitioners in the above cases.

41. As per the interim directions granted by this Court in WP MP No.27681 of 1998, dated 18-8-1998, the petitioner appeared for the I Year examination held from 7-9-1998, but his results were not published as per the orders of this Court, Subsequently, by an interim order granted by this Court in WP MP No.3552 of 1998, dated 25-10-1998, the petitioner was permitted to attend the classes for II Year Engineering Course. Subsequently, on 14-12-1998, he filed two WPMPs No.42818 of 1998 and 42819 of 1998 to publish the results of the I year examinations and to permit him to appear for supplementary examinations and also regular examinations of the II Year Engineering Course and to place the representation of his mother dated 4-12-1998 before the Executive Council. But no orders seemed to have passed on these two petitions. Once again on 19-0-1999 he filed WP MP No.840 of 1999 seeking amendment of the relief in para 5 of the affidavit and to permit him to question the validity of the proceedings of the Registrar in CIIJ (5) Condo/98, dated 26-10-1998, wherein the minutes of the meeting of the Committee held on 20-10-1998 constituted by the Vice-Chancellor to consider the case of the students studying in various colleges run by Sri C.R. Reddy Educational Society pursuant to the orders of this Court in WP No.9865 of 1998 and Batch, dated 16-9-1998 was communicated. On 19-4-1999 he filed three more petitions : (1) WP MP No.10569 of 1999 to permit him to write the final examinations of the II Year Engineering Course scheduled to be held in June 1999, (2) WP MP No.10570 of 1999 to permit him to

further amend the prayer in the writ petition and to direct the respondents not to insist for the required attendance in respect of the petitioner for the first year course of Engineering Computer Branch and treat him as a regular student for all purposes; and (3) WP MP No.10571 of 1999 seeking a direction to the 2nd respondent-Principal to furnish the-attendance particulars of the petitioner in II Year Engineering Course whenever required by him pending disposal of the above writ petition.

42. On 18-5-1999 he filed another WP MP No.12916 of 1999 seeking a direction to the respondents to receive his application for examination along with requisite fee for the II Year Engineering Course and also to permit him to write the examinations to be conducted at the end of the II Year Engineering Course pending disposal of the writ petition. This WP MP came up for hearing before my learned Brother Justice C V.N. Sastri, and by order dated 10-6-1999 he dismissed the petition observing that there are no valid grounds to permit the petitioner to sit for the II Year examination pending disposal of the writ petition. In the order the learned Judge clearly observed that following the earlier judgments of this Court he was inclined to dismiss the writ petition, but for the fact that the petitioner has filed a petition for amendment questioning the validity of the decision of the University on several grounds, and directed the writ petition to be posted for final hearing on 5-7-1999. Aggrieved by the said order, the petitioner filed Writ Appeal No.809 of 1999 which seemed to have come up for admission before the Hon"ble Chief Justice and Justice G. Raghvam. Their Lordships after hearing the arguments on 16-6-1999 seemed to have reserved orders in the writ appeal. Thereafter the learned Counsel seemed to have filed a letter to withdraw the writ appeal, and by order dated 28-6-1999 the WA was dismissed as withdrawn. In the meantime, this writ petition seemed to have been listed before my learned Brother Justice S.R. Nayak and the learned Counsel for the petitioner filed a letter dated 6-7-1999 before the Registrar (Judicial) stating that the writ petition may be posted before me, as I already started hearing in the writ petitions and contempt cases referred supra, and as per the orders of the Hon"ble the Chief Justice on the same day, the case was listed before me.

43. The facts of the case are identical as that of the facts in the above cases except the fact that the petitioner joined in the college on 20-1-1998 while the first year course commenced in November, 1997, Sri K.V. Satyanarayana, learned Counsel for the petitioners in the above cases raises three more additional contentions in this writ petition. The learned Counsel firstly contended that had the second respondent conducted the first year engineering course for the full academic year, the petitioner would have put in the required attendance, but even on the admission of the second, respondent college itself the course was run for (180) days only, and as such the respondents are not justified in insisting for 75% of the attendance having run the college for truncated period. He also relied on a judgment to Full Bench of Orissa High Court in Dr. Basanta Kumar Behera and Others Vs. State of Orissa and Others, , wherein their Lordships declared that the cut off date fixed by the respondents for appearance to the

entrance test for selection of candidate to P.G. courses by taking judicial notice of uncertainty about commencement and of close of academic sessions as unreasonable.

44. I need not refer to that judgment for the simple reason that as per the circular of the UGC, dated 25-11-1985, which was referred, *supra* that the educational institutions shall ensure that the actual number of teaching days does not go below (ISO) days in an academic year. It is a known fact that after introduction of the entrance test it has become physically impossible to adhere to the academic year schedule and the UGC keeping this difficulties in mind directed that in an academic year the actual teaching days shall not be less than (180) days. It is not the case of the petitioner that the college was not run for (180) days. Even assuming without admitting that the classes could not be run for full academic year, the same disadvantage was faced not only by the students of this college alone, but all the students who are admitted to first year engineering courses throughout the State during the academic year 1997-98. Further as per the guidelines of the UGC as well as the resolution of the University the student is required to attend 75% of the total number of classes that were held during that academic year. In other words, the attendance will be calculated on the total number of days for which the course was conducted during the academic year. But, in this case, while the courses were commenced in November, 1997 he was given admission only on 20-1-1998. Hence, the respondents are not justified in calculating the attendance of the petitioner from the date of commencement of the course, as his admission to the course was not due to his fault but because of the delay in the process of admissions. I am fortified in my view by a judgment of the Supreme Court in *Harsha Pratap Sisodia v. Union of India*, 1 (1999) SLT 573, wherein their Lordships of the Supreme Court observed that "since the petitioner was kept out of the college, on wholly unjustified and illegal grounds, it is obvious that he would not be able to make up the attendance criteria, if the attendance is to be counted from the date when the session started. It, therefore appears appropriate to us to direct that the attendance in the case of the petitioner should be counted from the date when the admission is granted to him pursuant to the directions herein above made, by the Medical College, Solapur to consider his eligibility in appearing in the examination."

45. Nextly, the learned Counsel for the petitioner contended that the action of the respondents in not allowing the petitioner to appear for the first year examination having admitted him to the course is violative of the legitimate expectation that has arisen in this case and the same is violative of Article 14 of the Constitution of India. This issue was answered by the Supreme Court, after reviewing the entire case law, in *Madras City Wine Merchants' Association and Another Vs. State of T.N. and Another*, , Their Lordships held that "legitimate expectation may arise (a) if there is an express promise given by a public authority or (b) because of the existence of a regular practice which the claimant can reasonably expect to continue; and (c) such expectation must be reasonable." Their Lordships further held that however if there is change in the

policy or in public interest the position is altered by a rule or Legislation, no question of legitimate expectation would arise.

46. In this case, no one has given an express promise to the petitioner that he will be sent for the examinations even if he won't attend the classes. On his own showing in the affidavit filed in support of the petition he categorically stated that as per Rule 66 of the Rules of Engineering Examinations framed by the Andhra University, 75% attendance is necessary for appearing for final University examinations. Further, the callendar of the college was also furnished to the students at the time of admission wherein it was clearly stated that one should put in minimum attendance to appear for the examinations. Hence the petitioner cannot contend that by mere giving admission he is entitled to appear for the examinations. The petitioner seemed to have claimed legitimate expectation on the ground that some other students who did not put in required attendance were permitted to write the examinations by condoning their shortage of attendance in their cases. This issue was already dealt with in the above writ petitions and the University categorically stated, in case of two individuals, the Controller of Examinations without the knowledge of the Executive Council condon the shortage of attendance, and in case of one student, they tried to justify their action keeping excellent academic career maintained by the boy and also prolonged illness of his mother, who ultimately succumbed to the disease. In fact, they submitted that they are prepared to cancel the orders of condonation of shortage of attendance in their cases if the Court directs. Except these cases, more so, all of them belongs to the same institution, in no other case, the University condoned the shortage of attendance. The expectation should be reasonable, as I have already held that leave apart the legal niceties in this case fixation of minimum attendance to permit a particular student to appear for the examination is having on its own salutary effect. A student without attending the classes can neither acquire knowledge nor farewell in the examinations. On the other hand, though the University did not make regulations as contemplated under the Act, the Executive Council was adopting resolutions from time to time, the latest being the communication from the Registrar dated 29-3-1996, i.e., much prior to the admission of the petitioner into the college. For all these reasons, the petitioner cannot raise the plea of legitimate expectation and contend that lie should be permitted to appear for the examination.

47. Thirdly, in questioning the legality of the letter of the Registrar dated 26-10-1998 wherein the minutes of the Committee dated 20-10-1998 were communicated to the 2nd respondent college, the petitioner raised the same contentions as that of other petitioners which were already rejected. I need not refer to them again here.

48. The WP MPs in which orders were not passed by this Court are dismissed and the interim orders passed by this Court from time to time shall stand merged in the final order.

49. In the result, the writ petition is allowed to the extent that the attendance of

the petitioner has to be calculated from the date of admission i.e., 20-1-1998 and if the petitioner has put in minimum 66% of the attendance, a direction is given to the respondents to declare the results of the I Year examination written by him under the directions of this Court dated 18-8-1998 and take further action to permit him to appear for further examinations as per law. In all other respects, the writ petition stands dismissed.

50. Before parting with the case, this Court would like to observe that had the University framed the regulations governing the conditions on which a student shall be admitted to the examination for conferring degrees, diplomas, certificates and titles of the University as contemplated u/s 25(1)(j) and 55(I)(c) of the Act, which will have a statutory force instead of adopting resolutions by the Executive Council from time to time, the question of condoning the shortage of attendance either by the Executive Council or by the Controller of Examinations, even though a student has not put in the minimum required attendance as contemplated under the resolutions of the Executive Council adopted from time to time, would not have arisen and the University would not have been dragged into this un-necessary litigation. Hence, a direction is given to the University to frame the regulations in this regard at the earliest point of time and put an end to this sort of frivolous litigation.

51. Likewise, during the course of arguments, I had an occasion to go through the guidelines of UGC for conferring autonomy on the colleges, to give a free hand to those colleges to bring in modernisation and improvement of standards. In the scheme evolved by the UGC, an autonomous college will have:

(i) freedom to determine its own courses of study;

(ii) prescribe rules of admission; and

(iii) evolve methods of evaluation to conduct examinations. In other words, the UGC intends to give freedom to the autonomous colleges for conducting their own examinations for the purpose of conferring degrees, diplomas etc., without reference to the University, by stating that the entire philosophy of education reform is that one who teaches should evolve the student, with a view to bring about interaction between the teaching and the learning on a continuing basis and to test those skills which cannot be tested through a written examination alone, at the end of the term of the course. The so-called experts perhaps embarked upon on an ambitious scheme without knowing the socio- economic background of the teeming millions of the citizens of the Country. Unlike the other countries, the Hindu society is a society of graded inequalities and a man's merit will be tested not on the basis of his knowledge, or proficiency but on the caste to which he belongs. This Court may not be knowing what is happening in other States, but as far as this State is concerned, from the litigation that is cropping up year after year on the conduct of examinations will reveal that the experts are not able to set up correct question papers and the authorities entrusted with the conduct of public examinations are not able to conduct them

without leakage of question papers. With the result, the entire educational system in the State became pellmull and it is not even known when the academic year starts and when it ends, This Court would like to place on record that if the teacher who teaches the student has to evaluate his merit, while students belonging to a few privileged families will be unduly rewarded, the other's future and career will be at the wims and fancies of the teacher, who is not above Religion, Race, Caste, Sex or even Region. In fact, the students who involved in this litigation for over two years are no other than the students of a single autonomous College and the Principal in office tried to condone the shortage of attendance of the students though they never attended the college. This very incident proves the ill effects of conferring autonomy on mere asking without examining the attendant circumstances. I hope and trust that the UGC as well as the University will bestow their attention on the views expressed by this Court and take a decision whether it is safe to confer autonomy on educational institutions without streamlining the very system of education, which is at present tilted in favour of rich and neo-rich, more so, after privatisation of education in this country.