

(2012) 01 AP CK 0093

In the Andhra Pradesh High Court

Case No : Writ Petition No. 27426 of 2010

Ms. Udari Lata Maisaiah

APPELLANT

Vs

The Jawaharlal Nehru Technological University Masab Tank,
Hyderabad and The Principal, Sreenidhi Institute of Science
and Technology Yamnampet, Ghatkesar, Hyderabad

RESPONDENT

Date of Decision : 20-01-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 3 ALD 32 : (2012) 3 ALT 261

Hon'ble Judges : Samudrala Govindarajulu, J

Bench : Single Bench

Advocate : L. Ravi Chander For Sri.Parsa Ananth Nageswar Rao, for the Appellant; K. Rathanga Pani Reddy Respondent No. 1 and Sri. Mohan Vinod and Associates Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Sri Justice Samudrala Govindarajulu

1. The petitioner by the time of filing of the Writ Petition was in IV year 1st semester B.Tech (Bio-technology) course studying in the 2nd respondent's college i.e. Sreenidhi Institute of Science and Technology, Ghatkesar, Hyderabad, which is affiliated to 1st respondent University. She was not allowed to take IV year 1st semester examinations scheduled from 08.11.2010, on the ground that she was not having required percentage of attendance. Questioning the same, the petitioner approached this Court with this Writ Petition under Article 226 of the Constitution of India seeking "Writ of Mandamus." At the outset, Sri Larvae Chander, advocate who submitted arguments on behalf of the petitioner, fairly conceded that in case the petitioner did not have 65% of attendance, then she is not eligible for appearing for the examinations and that the petitioner has no remedy before this Court. The 1st respondent's counsel placed reliance on B. Yugandhar Vs. Principal, Kuppam Engineering College and Another, of this Court,

wherein Division Bench of this Court while confirming order passed by Single Judge of this Court in a Writ Petition held that no direction can be given to the University to violate mandate of academic regulations on a plea of sympathy. Therefore, it has to be seen whether the petitioner's case falls within academic regulations of the University for the course.

2. Academic regulations of Bio Medical Engineering for B.Tech 4 year degree course of the 1st respondent University prescribe regulations regarding attendance to the following effect:

6. 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 10% (65% and above and : below 75%) in each semester or I year may be granted by the college academic committee.

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(vi) Condonation of shortage of attendance as stipulated in 6(ii) above shall be granted on genuine and valid grounds with supporting evidence.

3. It is contended for the petitioner that the petitioner did project work from 10.06.2010 to 30.07.2010 in Centre for Liver Research and Diagnostics and that if the said period is taken into account as attendance, since doing mini project work is part of academic regulations of the course, then the petitioner will fall within regulation 6(ii) of the above regulations.

4. As per contention of the petitioner in the affidavit filed in support of this petition, the petitioner had put up 52.95% of attendance. But, the 1st respondent in the counter averred that the petitioner was having 62% of attendance for that semester in question. It is stated by the Standing Counsel for the 1st respondent that if presumptive attendance is given for the candidate for preparation holidays, etc., then total percentage of the petitioner's attendance comes to 62%. Since the percentage of attendance given by the 1st respondent is beneficial to the petitioner, the petitioner's attendance is taken as 62% during the relevant semester.

5. In Para 3 of the affidavit filed in support of this petition, it is pleaded by the petitioner that she completed her project work in Owaisi Hospital for the duration of 01.06.2010 to 11.07.2010. Contrary to the said averment in the petitioner's affidavit, certificate is filed by the petitioner from Scientist and Lab Supervisor of Centre for Liver Research and Diagnostics, to the effect that the petitioner completed the project work at that center and Allied Hospitals in Kanchanbagh,

Hyderabad, under his guidance and supervision from 10.06.2010 to 30.07.2010. The said certificate is filed along with W.P.M.P. No. 22589 of 2011 in this Writ Petition. It is evident that the petitioner is going on changing her stand from stage to stage and going on giving dates of her choice which are suitable to her case. In spite of filing the said certificate, it is not the petitioner's allegation in any affidavit that she did project work from 10.06.2010 to 30.07.2010. To repeat, as per Para 3 of the affidavit filed in support of this Writ Petition, she did project work and completed the same during the period from 01.06.2010 to 11.07.2010. The period of 01.06.2010 to 11.07.2010 falls within summer vacation. Any alleged project work stated to have been done by the petitioner during summer vacation cannot be taken into consideration for reckoning attendance to classes. According to the petitioner, as alleged in Para 4 of the affidavit filed in support of the Writ Petition, she was suffering from viral fever from 12.07.2010 to 31.07.2010. It is contended for the petitioner that in case it is relegated to the academic counsel of the 1st respondent-University to consider whether the period from 12.07.2010 to 31.07.2010 has to be reckoned as attendance to the classes, then it will help the petitioner in case the said period is reckoned as attendance to classes. As per Regulation 6(vi), the University has power to condone shortage of attendance as stipulated in Regulation 6(ii) for genuine and valid grounds with supporting evidence. Condonation of shortage of attendance as per Regulation 6(ii) arises only to the extent of aggregate upto 10% i.e. 65% and above and below 75%. In this case, the petitioner as per her case was having 52.95% of attendance and as per the 1st respondent's case was having 62% of attendance. In any event, Regulation 6(vi) cannot be invoked either by the petitioner or by the University authorities for attendance, since the petitioner's attendance is admittedly below 65%. Therefore, both on facts as well as on Rule position, the 1st respondent has no jurisdiction to consider condonation of attendance of the petitioner; and the question of relegating the decision to the University authorities in this case will not arise. In the circumstances, the petitioner has no right and is not eligible for attending IV year 1st semester examinations of B.Tech course. Accordingly, the Writ Petition is dismissed. No costs.