
(1994) 09 MAD CK 0038

In the Madras High Court

Case No : Writ Petition No. 6462 of 1994

Nithya

APPELLANT

Vs

University of Madras, and Others

RESPONDENT

Date of Decision : 14-09-1994

Acts Referred:

Constitution of India, 1950 — Article 226, 41, 42
Madras University Regulations — Regulation 2

Citation : AIR 1995 Mad 164 : (1996) 2 LW 856

Hon'ble Judges : S.M. Ali Mohamed, J

Bench : Single Bench

Advocate : Mr. R. Gandhi, for Mr. N. Paul Vasanthakumar, for the Appellant;
Miss. S.K. Geetha, for the Respondent

Judgement

1. By consent of parties, the main writ petition itself is taken up for final disposal.

2. The petitioner herein is a student of the Ethiraj College for Women, Madras for B.A. Corporate Secretaryship (Evening Class) Three Years

Course from 1991-92 to 1993-94. For the final academic year, that is, 1993-94, she has completed 55.75% of attendance. However, due to the fact that she was married on 18-10-1993 and shortly thereafter, she was conceived and as such she was suffering from morning sickness and was indisposed due to nausea throughout the day, she was not able to attend the college regularly. In the mean-time, as the final, year examination of three years course commenced on 8-4-1994, she approached the third respondent -- the Principal, Ethiraj College for Women on 6-4-1994 to write the examinations. But, she was informed that her hall ticket was withheld. Aggrieved by the same, the petitioner has approached this Court for a writ of certiorarified mandamus to call for the records on the file of the third

respondent pertaining to the letter dt. 6-4-1994 impugned in this writ petition and quash the same and consequently direct the respondents to permit the petitioner to sit for the examinations which was scheduled to commence from 8-4-1994.

3. The writ petitioner was permitted to write the examination by virtue of the interim order passed by this Court in W.M.P. No. 10043 of 1994.

Accordingly, the third respondent issued the hall ticket to the petitioner. Subsequently, the petitioner appeared for the examinations but, however, her results have been withheld pending disposal of the writ petition.

4. It is submitted by Mr. R. Gandhi, learned senior counsel appearing for the petitioner that due to the peculiar facts and circumstances of the case

that the petitioner was married during the last term of her course and she was conceived and was suffering from morning sickness and other

indispositions including nausea throughout the day, she was not in a position to regularly attend the classes. In any event, the petitioner has attended

55.75% attendance. As per the Madras University Regulations regarding attendance, learned senior counsel referred to clause 2(a) relating to non-

semester courses, which says that all candidate must put in 75% of attendance for Arts, Science, Commerce, Engineering and Law Courses.

However, clause 2(ii) states that the candidates who have put in not less than 50% of attendance may be permitted to proceed to the next year of

the course and they may be permitted to take next September or subsequent University examination by paying the prescribed condonation fee

without putting in further attendance. Learned senior counsel further submitted that the rule with regard to the condonation of 50% of attendance

may be applied in the case of the petitioner as an _ exception and that she need not once again write the September examination as she has already

written her examination in April 1994 by virtue of the order of this Court. On the other hand, respondents 1 and 2 have filed a counter affidavit,

wherein it is stated as follows:

It is submitted that normally the candidate should have 75% of attendance including condonable limit of 12.5% of attendance. Therefore, if the

candidate has 62.5% of attendance it is within condonation limits and the application for condonation together with attendance details should be

forwarded through the Principal of respective college. Candidates who are in

shortage of attendance beyond the condonation limit are not eligible

to appear for the respective University examination. The candidate has obtained only 55.75% attendance which is not within condonation limits.

With regard to averments in para 4 it is humbly submitted that the hall ticket of Mrs. J. Nithya (Register No. 1107479) was sent to the college

along with other candidates for March 1994 examination. The Principal of the College withheld the hall ticket of the above candidate for lack of

attendance. In III Year of B.A. Corporate, one application oriented subject paper is "Institutional Training", for which the examination for

candidate is conducted by the department of the respective colleges. The awarded marks shall be sent to the University. The above candidate has

obtained 75 marks" The same was forwarded by the college to us.

With regard to averments in Para 5 it is humbly submitted that cut of total number of 225 days the candidate should have attended 168 days to

have minimum required attendance whereas the petitioner has attended only 126 days and was absent for 99 days and it is not within the

condonable limit.

5. Learned counsel for the first respondent University of Madras submitted that as per the attendance regulation applicable to the petitioner even if

50% of attendance is condoned as the rule stands, she has to appear for the next September or subsequent University examination by paying the

prescribed condonation fee without putting in further attendance. There is force in the contention of Miss K. Geetha, learned counsel appearing for

the respondent that as the rule stands the University is bound by the said regulations. However, in the instant case, it is clear that the petitioner

during the last course of her academic year for B.A. Corporate Secretaryship was married on 18-10-1993 and she was conceived shortly

thereafter and as a result she was suffering from morning sickness and other indispositions and, therefore, she was not in a position to attend the

classes regularly. The reasons given by the petitioner for not attending the classes have to be accepted as they are genuine and natural

consequences of married life. However, there is an impediment as far as University is concerned as long as Regulation 2(ii) is there. Taking into the

peculiar facts and circumstances of the case, I feel that it is a fit case to give an exemption from the operation of the said rule as the petitioner has

completed 55.75% of attendance and as such she is entitled to condonations of attendance by paying necessary condonation fee to the University.

In this connection it is observed that as large number of women students are joining University courses and the type of situation in which the

petitioner was involved viz., she was married, may also occur in case of any woman students. The directive principles of State policy contain in

part IV of our Constitution by Art. 41 says that the State shall, within the limits of its economic capacity, make of active provision for securing

education. If equal opportunity is given to women for education, they can stand on equal terms with men. Article 42 of the Directive Principles of

State Policy says that the State shall make provision for securing just and humane conditions of work and for maternity relief. Maternity relief in

case of girl student will include leave. The University of Madras, a creature of statute can make provisions for granting leave to girl students, if they

get married during the period of study and lose their minimum attendance. It is high time that the regulations that have been framed by the

University are modified taking into consideration such situations where women student are married during the last course of their academic career

and due to pregnancy they may not be in position to attend and complete the course. In such cases, if women students have completed the

minimum attendance, it is always open to the University to condone the attendance by payment of condonation fee and allow the women

candidates to appear for the University examinations and complete the course. Accordingly, the petitioner is directed to pay the condonation fee to

the first respondent within two weeks from the date of receipt of the order and thereafter the first respondent shall publish the result of the

petitioner.

6. With the above observations and directions, this writ petition is allowed. No costs.

7. Petition allowed.