

(2002) 03 MAD CK 0038

In the Madras High Court

Case No : Writ Petition No's. 4506, 4507, 4508, 4509, 4510, 4511, 16032, 16302 and 15703 of 2001 and W.M.P. No's. 23832, 23833, 24226, 23296 and 23297 of 2001

S. Selvakumar, B. Esakkimuthu, R. Rajeswaran, T. Radhakrishnan, M. Suresh Kumar, K. Alguvel @ Murugan, S. Thirumurgan, Suraj Brahma and E. Muthusaravanan APPELLANT

Vs

The Central Institute of Plastics Engineering and Technology (Ministry of Chemicals and Fertilizers, Govt. of India) Guindy, Chennai RESPONDENT

Date of Decision : 28-03-2002

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2002) 03 MAD CK 0038

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : G. Thilakavathi and N. Kannadasan, for the Appellant; V.T. Gopalan, A.S.G. for Radha Gopalan, for the Respondent

Judgement

P.K. Misra, J.—These nine writ petitions raise common question of facts and law and were heard together and are being disposed of by this

common judgment.

2. Petitioners are the students of the Central Institute of Plastics Engineering & Technology (hereinafter referred to as ""Institute""). Aforesaid

Institute is established under the Ministry of Chemicals & Fertilizers, Government of India and is an autonomous Institution relating to Plastics

Mould Technology. There is no dispute that such Institute is a ""State"" within the meaning of Article 12 of the Constitution of India.

3. Petitioners have joined three years / two years Diploma Course in the Academic year commencing from 1999. Entire course consist of six or

four semesters as the case may be. The petitioners were served with notice to the effect that they were demoted to the previous semester on the ground that they had failed to clear the arrear papers in the final attempt. They were also informed that they were free to clear the arrear papers in the subsequent supplementary examinations as private candidates and they were permitted to join the course of study after clearing the arrear papers.

4. Aggrieved by such notices issued to the petitioners / their respective parents, the writ petitions have been filed mainly on the ground that the respondent has not been authorised to change the regulation mid stream and the petitioners were to be governed by the procedure relating to supplementary examination and admission to subsequent semester in accordance with the Rules which were applicable at the time of their admission into the course. It has been contended that the respondent has no authority to change the procedure to the detriment of the students after they have completed a part of the course.

5. A common counter affidavit has been filed on behalf of the respondent in each of the writ petition. It has been contended in the counter that in fact the amended rule is more liberal than the previous rule and the students had also given undertaking in accordance with the amended rules and as such they are bound by the amended rules.

6. For considering the main question raised in the writ petitions, it is necessary to quote the relevant provisions contained in the previous rules and the amended rules.

Rule 5 of the unamended rule laying down the procedure for completing the Diploma Course is extracted hereunder :-

(5) Procedure for completing the Diploma Course:

1. A trainee will complete the course of study in 3 consecutive academic years without break.
2. A trainee will not be prevented from proceeding to the next semester because of his failure in proceeding semester examination.
3. However a trainee will not be permitted to continue for 3,4,5 or 6th semester classes unless and until he has completely passed the I, II, III or IV semester examination respectively.

4. A trainee will be permitted not more than two supplementary examinations.

Amended rule, so far as relevant, is extracted hereunder:-

. . A student who has failed in a particular semester can continue his further course of study to the next semester only. However, he has to clear

the arrear paper before he completes the current semester, failing which, he will not be permitted to continue his studies to the next semester. A

student can appear any number of times to clear the arrear papers as a private candidate and on successful completion of the arrears he will be

readmitted to the next semester.

7. Learned counsel appearing for the petitioners has submitted that the unamended rules were also not within the knowledge of the students and at

any rate sub-rule (3) of Rule 5 of the unamended rule being unintelligible, the petitioners should be allowed to go to the next semester as per the

previous practice.

8. Submission to the effect that previous rules were not within the knowledge of the students cannot be accepted. In the absence of any categoric

and credible assertion, it is prudent to proceed on the footing that the unamended rules were within the knowledge of the students. As has been

analysed by Sri V.T. Gopalan, Additional Solicitor General for the respondent, the unamended rules, particularly sub-rule (3) and (4) provided that

a trainee would be permitted to appear for two supplementary examinations and if he fails to clear the papers within the two supplementary

examinations, he would not be permitted to continue in the Institute and would be forced to leave the Institute at that stage. This submission

appears to be well-founded.

9. A careful perusal of sub-rule (3) and (4) of Rule 5 makes it clear that a trainee shall not be permitted to continue in the third semester unless and

until he had passed the first semester and for passing such first semester, a trainee would be permitted to appear at two supplementary

examinations. It is evident that sub-rule (3) is a proviso to sub-rule(2) and has the effect of restricting the import of sub-rule (2). If a trainee does

not clear the first semester, he would be allowed to continue in the second semester. However, if he does not pass the first semester after availing

two supplementary examinations, he would not be allowed to continue the third semester. Similar is the effect relating to 4th, 5th or 6th semester

respectively, vis-a-vis 2nd, 3rd or 4th semester. In other words, a trainee who fails to clear second semester after availing regular semester and

two supplementary examinations shall not be allowed to continue for 4th semester and such a trainee would be forced to leave the Institute as per

the previous rule.

10. Learned counsel for the respondent has therefore submitted that the amended rule is more student-friendly in the sense that a trainee would be

given any number of chances for passing a semester examination. Though he can continue his course of study in the next semester only, but, until he

clears the previous semester, he would not be allowed to continue the subsequent semester. In other words, a trainee who fails in the first semester

would be allowed to continue in the second semester, however, until such trainee clears the first semester he would not be allowed to go to the

third semester. However, unlike the previous rule, such person can appear in any number of times to clear such failed semester and as and when he

clears the said semester, he would be taken back in the Institute.

11. Provision in the amended rule to the effect that a student can appear many number of times to clear the arrear papers as private candidate and

on successful completion of the arrear papers he would be readmitted in the next semester makes it clear that the amended rule is obviously more

beneficial to the students concerned. Therefore, the contention of the learned counsel for the petitioner to the effect that the rules have been

changed to the detriment of the students after they were admitted does not hold any water. Since the amended rules are more beneficial to the

students, the question of invalidating such amended rules on the ground that the rules have been arbitrarily changed subsequent to the admission of

the students is not acceptable.

12. Even though the contention of the respondent in respect of validity of the rule is justified, learned counsel appearing for the respondent has very

fairly submitted that in view of the subsequent events on the basis of the interim orders, the students who had been permitted to continue in the next

semester may be allowed to complete their course. He has submitted that he would not stand on technicalities and the students may be allowed to

appear in the examinations as they are permitted to continue in the next semester. So far as the petitioners in the writ petitions other than

W.P.No.4509 of 2001 are concerned, it appears that pursuant to the interim orders, such students have been allowed to appear in the semester

examination which they have passed and they may be allowed to complete the next semester as they have been already been admitted to the next

semester by virtue of the interim orders.

13. So far as the petitioner in W.P.No.4509 OF 2001 is concerned, it appears that said petitioner had failed to clear 4th semester even at the

supplementary examinations. In normal course, either following the old rule or the new rule, he would not be permitted to continue in the 6th

semester. However, even in his case, the learned Additional Solicitor General has very fairly submitted that since the said student has been

permitted to continue in the next semester and has been allowed to appear in the examination, he may be allowed to continue further in the Institute

as a special case which may not be treated as a precedent for others.

14. Accepting the said suggestion of the learned counsel appearing for the respondent, the petitioner in W.P.No.4509 OF 2001 is also permitted

to continue in the next semester. However, it is made clear that if any further occasion would arise in his case regarding applicability of the

amended rules, he would be governed by the amended rules only.

Subject to the aforesaid observation, all the writ petitions are disposed of without costs. Consequently, the connected WMPs are closed.

15. Before parting with the case, I must place on record my appreciation for the fair manner in which the learned counsel for the respondent has

made submissions in the interest of the students without standing on the technicalities.