

(1999) 02 MAD CK 0101
In the Madras High Court

S. Sivamani and Others

APPELLANT

Vs

Director of Technical Education and Another

RESPONDENT

Date of Decision : 11-02-1999

Acts Referred:

Citation : (1999) 3 MLJ 97

Hon'ble Judges : S.S. Subramani, J

Bench : Division Bench

Judgement

S.S. Subramani, J.—All these writ petitions are filed by the students of second respondent-College. They were not permitted to write the examination by the second respondent on the ground that there were no sufficient attendance and also for the reason that some of them have issued certain pamphlets against the Principal.

2. When the writ petitions came for admission, learned Judge of this Court admitted them and also permitted all the writ petitioners to write the examination. Consequently, they have also written the examination.

3. At the time of argument, I heard the learned Government Advocate also. The only question that should be considered is what should be the relief that is to be granted to these petitioners.

4. In Shri Krishnan Vs. The Kurukshetra University, Kurukshetra, , their Lordships held that once the examination fee has been accepted, normally, the candidates are entitled to right the examination. Their Lordships also held that it is the duty of the Head of the Department to scrutinise the applications then and there and also disclose the shortage of percentage in the attendance to the candidate. To prevent the candidate from writing examination by denying the hall-ticket, or after giving the hall-ticket, not permitting to write examination is not proper.

5. In view of the above decision, I feel the petitioners are entitled to succeed in this case. It is a definite case that it is not due to their fault, they did not attend the class. It is their case that the college did not work since the same was closed

down due to strike, and indefinite closure. Immediately, after knowing the opening of the college, they have regularly attended the classes and they have also paid the required term fees and also examination-fees. It is their definite case that they were not informed about the shortage of attendance before receiving the examination-fees and therefore, they should not be denied the right of participation in the examination.

6. The writ petitioner in W.P. No. 13680 of 1995 has paid the examination fee for the fifth semester. From the affidavit, in support of the writ petition, it is seen that before denying the hall-ticket, this petitioner also was not heard. As against that, the reason mentioned is that she was instigating the strike, if that is so, the action of the respondent is only punitive in nature which requires prior notice before any action. Same was the case of the writ petitioner in W.P. No. 13681 of 1995 also.

7. Learned Government Advocate at the time of the argument, submitted that lack of attendance will make these candidates ineligible to write the examination and that is a qualification.

8. In view of the decision cited above, I do not think that the argument could be accepted.

9. As I said earlier, all these petitioners have written examinations pursuant to the orders of the court. When the court permits the candidate to write examination, the authorities cannot thereafter refuse to publish the result.

10. In the case result, there will be a direction in all these cases, directing the respondents to publish the result of the petitioners' examinations which they have written as per orders of this Court. I direct them to do so within a period of four weeks from today.

11. Writ petitions are disposed of as above. No costs. Consequently, W.M.P. Nos. 21866 to 21869 and 21897 to 21900 of 1995 are dismissed.