
(2003) 09 MAD CK 0129

In the Madras High Court

Case No : Writ Petition No. 16078 of 2003, WPMP. No. 20129/93 and WVMP. No. 1198/03

Sathyanarayana G.

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 10-09-2003

Acts Referred:

Citation : (2003) 09 MAD CK 0129

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : R. Balakrishnan, for the Appellant; G. Kavitha, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—By consent of both parties, the main writ petition itself is taken up for final disposal.

2. The petitioner has approached this Court to issue a writ of mandamus directing the Director of Government Examinations, Chennai 6, second respondent herein to return the original Higher Secondary Course Certificate (mark sheet) of the petitioner for March, 2002 under Registration No. 880449 to him.

3. The case of the petitioner is briefly stated hereunder:

The petitioner appeared for +2 examination conducted by the second respondent in March, 2002 and got through the examination and secured the following marks, namely,

Tamil - 132; English - 171; Physics - 169; Chemistry - 175; Biology - 171 and Mathematics - 147

out of 200 in each subject under Registration No. 880449. Subsequently, he appeared for the Professional Course Entrance Examination conducted by the

Anna University and secured the following marks in the entrance examination.

Physical Science - 36.86; Mathematics - 25.86; Biology - 43.33.

Finding that, he could secure more marks in the qualifying subjects for Professional Courses, he opted for writing improvement examination in +2 and wrote the +2 improvement examination in March, 2003 under Registration No. 903169 and also appeared for the Entrance Examination for Professional Courses conducted by the Anna University. Along with the application for improvement examination, he was given written instruction prescribing the conditions and fees for writing improvement examination for +2. Though he wrote Tamil, English, Physics, Mathematics, due to fever, he could not write Chemistry and Biology and the mark certificate issued by the second respondent reveals about his absence for the subject Chemistry and Biology. In view of his absence for two examinations, he was not eligible to pursue higher studies in professional courses on the basis of the improvement examination, though he was qualified to apply for professional courses, on the basis of his academic marks obtained in March, 2002 under registration No. 880449 and entrance marks. As per G.O. 142 dated 12.09.2001, issued by the first respondent, though it stipulates the marks obtained in the improvement examination alone should be taken into account for higher studies, it also stipulates that only when the student writes all the six subjects, the marks obtained in the improvement examination alone should be taken into account. In view of his absence for two examinations, it cannot be construed that he had opted fully the improvement examination conducted for +2 in March, 2003 and consequently the marks obtained by him in March +2 examination in registration No. 880449 stands. In view of the precarious situation, he applied for professional course in Anna University for Engineering course on the basis of his academic marks obtained in March, 2002 and entrance marks. At the time of counselling, since he has to enclose the original mark certificate, which he had enclosed along with improvement examination application with the second respondent, he requested the second respondent to return the said original mark certificate on 27.05.2003, but the second respondent had declined to return the same. In the absence of his original Higher Secondary Certificate of March, 2002 under Registration No. 880499, he cannot join the professional course for this year, namely 2003-2004. The oral refusal made by the second respondent is arbitrary and illegal, hence the present writ petition.

4. The Director of Government Examinations - second respondent herein has filed a counter affidavit, wherein it is stated that the Government have introduced revised improvement Scheme vide G.O.Ms. 142 School Education (VI) Department, dated 12.09.2001. As per the revised Scheme, +2 passed candidates, who desire to improve their marks shall appear in all subjects including language. As per the Scheme, the marks secured in the improvement marks alone shall be taken into account for pursuing higher studies. The validity of the revised improvement scheme introduced by the Government was

challenged before this Court in W.P. Nos. 16589, 17179 of 2001 etc., batch. By a common order dated 08.02.2002 made in W.A. No. 1876 of 2001 and in W.P. No. 16589 of 2001 etc. batch, the Division Bench upheld the validity of the Scheme and directed that the revised Scheme shall be operative from September, 2002 onwards. The petitioner appeared in the +2 examination as a regular candidate in March, 2002. He secured 965 marks in total out of 1200. He applied for improvement in response to the notification issued for the Higher Secondary Examination held in March, 2003. In the notification, it is specifically stated that the candidates appearing for improvement examination shall right all the six subjects. It is clarified that the marks secured by the candidates in the improvement examination alone will be taken into account for admission into higher studies. It is also specifically mentioned that the original mark sheet / mark certificate of the candidate for their previous appearance should be enclosed along with the application and the same will be cancelled in respect of the candidates those who are appearing for improvement examination alone. It is further made clear that the candidates appearing for the improvement examination will get only the market sheet for the improvement examination. The notification was widely published in English newspaper namely, "The New Indian Express" and Tamil daily "Dhina Boomi" and "Dr. Namadhu MGR". The petitioner herein appeared for the improvement examination conducted in March, 2003 to improve his marks. He did not appear for Chemistry and Biology examinations conducted in March, 2003. He was marked absent in those two subjects. As per the Scheme, the petitioner is not entitled to get back the previous appearance mark sheet. Since the petitioner was absent for two subjects in the Examination held in March, 2003, he will be treated as failed in those two subjects. Therefore, he can appear for the special supplementary examination scheduled to be conducted from 25th June, 2003 onwards, provided he had already applied for those two subjects. Since as per the Scheme, the petitioner is not entitled to receive his mark sheet for the previous appearance in March, 2002, the relief claimed by the petitioner cannot be granted.

5. In the light of the above pleadings, I have heard Mr. R. Balakrishnan, learned counsel for the petitioner and Mrs. G. Kavitha, learned Government Advocate for the respondents.

6. The only point for consideration in this writ petition is, whether the petitioner is entitled the original Higher Secondary course certificate - mark sheet, March 2002 under Registration No. 880449?

7. In the light of the narration of the facts in the earlier part of my order, it is unnecessary to refer the same once again. There is no dispute that the petitioner herein appeared in the +2 examination as a regular candidate in March, 2002. He has secured 965 marks in total out of 1200. In other words, he has successfully completed +2 examination in March, 2002. He applied for improvement in response to the notification for Higher Secondary examination held in March, 2003. In this regard, it is relevant to refer the information

furnished by the Director of Government Examination, Chennai 6, with regard to revised improvement scheme. The Director has explained that the Government have introduced revised improvement Scheme in G.O.Ms. 142 School Education (VI) Department dated 12.09.2001. As per the revised scheme, which we are concerned +2 passed candidates, who desire to improve their marks shall appear "in all subjects including language" . In the light of the controversy, I have carefully verified the Scheme. As per the Scheme, the marks secured in the improvement examination shall alone be taken into account for pursuing higher studies. This has been specifically mentioned in the revised Scheme.

8. In this regard it is relevant to refer the instructions given by the Director of Government Examination in Na.Ka. No. 100984/H1/2001 dated 05.09.2001.

"

1. brg;lk;gh; - mf;nlhgh; nky;epiyj; njh;tpdpy; xU rpy ghl";fspy; kl;Lnk kjpg;bgz; nkk;ghL jpl;l;jpy; njh;btGj tpz;zg;gpj;jpUe;jhYk; jkpHf murpd; rkPgj;jpa mwptpg;gpd;go midj;J 6 ghl";fspYk; (, U bkhHpg;ghl";fs; cl;gl fl;lhakhf njh;btGj ntz;Lk;/

2/ //////////

3/ //////////

4/ kjpg;bgz; nkk;ghL jpl;l;jpy; bgwg;gLk; kjpg;bgz;fns cah;fy;tp nrh;f;iff;F fzf;fpy; vLj;Jf; bfhs;sg;gLk;/ "

In addition to this, the following clause in the Notification is also relevant.

"DIRECTORATE OF GOVERNMENT EXAMINATIONS, CHENNAI - 6.

HIGHER SECONDARY EXAMINATIONS, MARCH 2003 ADMISSION OF PRIVATE CANDIDATES.

.....

I)

II).....

(i)

(ii)

(iii)

(a)

(b)

(c) They should enclose their original HSE Mark Certificate and Chalan/D.D. Along with the application. The application without original HSE March Certificate will be rejected.

..... "

The Director of Government Examination has also explained in the counter affidavit that the notification inviting application for examination for Higher Secondary course held in March, 2003 was published in the English Newspaper "The New Indian Express" and the Tamil dailies "Dhina Boomi" and "Dr. Namadhu MGR" on 01.12.2002. The notification makes it clear that the candidates appearing for improvement examination shall write all the six subjects and the mark secured by the candidates in the improvement examination alone will be taken into account for admission into higher studies. This is also specifically mentioned in the notification that the original mark certificate of the candidate for their previous appearance should be enclosed along with the application and the same will be cancelled in respect of the candidates who are appearing for improvement examination. It is further made clear that the candidate appearing for improvement examination will get only the +2 mark sheet for the improvement examination alone. There is no dispute about the conditions prescribed in the improvement scheme as well as the fact that it was widely published in English and Tamil dailies.

9. It is not the case of the petitioner that he was not aware of those conditions while applying the same for improvement for the Higher Secondary Examination in March, 2003. After knowing those conditions, the petitioner sat for improvement examination in March, 2003. The details of marks secured by him in the first appearance and the improvement examination are as follows.

----- Subject Marks																	
secured in first Marks secured in appearance March, 2002 improvement exam																	
March, 2003. ----- Tamil																	
132	139	English	171	180	Physics	169	177	Chemistry	175								
Absent		Mathematics				147		111									
----- Total 965 607																	

Admittedly, the petitioner did not appear for Chemistry and Biology examinations in March, 2003 to improve his marks; consequently, he was absent in those two subjects. It is also seen from the counter affidavit that the mark sheet for the appearance in March, 2003 was issued after noting the marks as referred to above. In the light of the conditions in the revised improvement scheme, I am of the view that the petitioner is not entitled to get back the previous appearance mark sheet. In this regard, it is relevant to note that the validity of the revised improvement scheme introduced by the Government has been challenged before this Court and by a common order dated 08.02.2002 made in W.A. No. 1876 of 2001 and W.P. No. 16589 of 2001 etc., batch the Division Bench has upheld the validity of the scheme and directed that the revised scheme shall be operative from September, 2002 onwards. Inasmuch as the petitioner has appeared for improvement examination in March, 2003, as per the conditions prescribed in the revised improvement scheme, he is not entitled to get back his previous mark

sheet. Since the petitioner was absent for two subjects in the examination held in March, 2003, he will be treated as fail in those two subjects. The only remedy is that he can appear for the supplementary examination scheduled to be conducted.

In the light of what is stated above, particularly, in the light of the specific conditions prescribed in the revised improvement scheme and the validity of the said Scheme has been upheld by this Court, the petitioner is not entitled to get back his original Higher Secondary course certificate for March, 2002 under Registration No. 880449 and no direction can be issued, as claimed by the petitioner. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected WPMP., and WVMP., are also dismissed.