

APHC010552232024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3328]

**TUESDAY, THE SIXTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

WRIT PETITION NOs: 28673 of 2024 & 424 of 2025

W.P.No.28673 of 2024

Between:

1.B VENKATESWARA RAO, S/O. LATE VENKATA RAMANA, AGED ABOUT 46 YEARS, R/O. FLAT NO. 4/3, SRINIVASAM - 1, MADHURA NAGAR COLONY, SRIKAKULAM TOWN AND DISTRICT - 532001. ANDHRA PRADESH.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY DEPARTMENT OF TECHNICAL EDUCATION, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

2.THE JAWAHAR LAI NEHRU TECHNICAL UNIVERSITY JNTU, REP. BY ITS VICE CHANCELLOR, KAKINADA, EAST GODAVARI DISTRICT.

3.THE CONTROLLER OF EXAMINATION, JAWAHAR LAI NEHRU TECHNICAL UNIVERSITY (JNTU), KAKINADA, EAST GODAVARI DISTRICT.

4.GMR INSTITUTE OF TECHNOLOGY, REP. BY ITS PRINCIPAL. GMR NAGAR, RAJAM - 532127, SRIKAKULAM DISTRICT, ANDHRA PRADESH.

...RESPONDENT(S):

Counsel for the Petitioner:

1.RIZWAN ALI SHAIK

Counsel for the Respondent(S):

1.D.S. SIVADARSHAN

2.GP FOR TECHNICAL EDUCATION

W.P.No. 424 of 2025

Between:

1.B VENKATESWARA RAO, S/O. LATE VENKATA RAMANA, AGED ABOUT 46 YEARS, R/O. FLAT NO. 4/3, SRINIVASAM - 1, MADHURA NAGAR COLONY, SRIKAKULAM TOWN AND DISTRICT - 532001. ANDHRA PRADESH

...PETITIONER

AND

1.THE STATE OF AP, REP. BY ITS PRINCIPAL SECRETARY DEPARTMENT OF TECHNICAL EDUCATION SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

2.THE JAWAHAR LAI NEHRU TECHNICAL UNIVERSITY JNTU, REP. BY ITS VICE CHANCELLOR, VIZIANAGARAM.

3.THE CONTROLLER OF EXAMINATION, JAWAHAR LAI NEHRU TECHNICAL UNIVERSITY (JNTU), VIZIANAGARAM.

4.GMR INSTITUTE OF TECHNOLOGY, REP. BY ITS PRINCIPAL. GMR NAGAR, RAJAM - 532127, SRIKAKULAM DISTRICT, ANDHRA PRADESH.

...RESPONDENT(S):

Counsel for the Petitioner:

1.RIZWAN ALI SHAIK

Counsel for the Respondent(S):

1.D.S. SIVADARSHAN

2.GP FOR TECHNICAL EDUCATION

The Court made the following:

COMMON ORAL ORDER:

Heard Sri Shaik Rizwan Ali, learned Counsel for the Writ Petitioner and Sri D.S. Sivadarshan, learned Counsel for the Respondent No.4.

2. These two Writ Petitions raise similar questions and are related to each other.

3. The Writ Petition No.28673 of 2024 is filed seeking the following relief:

“...pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus, declaring the action of the 4th respondent in not allowing the petitioner's son by name B.V.K. Koushik to pay condonation fee as well as the Examination fee on the ground that the petitioner's son is having less percentage i.e., 7.5 percent of attendance to the required percentage of 65 percent for attending the examinations without considering the medical ground of the petitioner's son as well as the application made by the petitioner dated 10.11.2024 is illegal, arbitrary, unconstitutional and against the principles of natural justice and consequently direct the Respondents to receive the examination fee and allow the petitioner's son to appear the 3rd semester (2nd year 1st semester) exams by duly considering medical grounds as well as the application of the petitioner dated 30.11.2024 and to pass...”

4. The Writ Petition No.424 of 2025 is also filed by the same person seeking following relief:

“...pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus, declaring the action of the 4th respondent in not allowing the petitioners son by name B.V.K. Koushik to continue further semesters (after completion of 3rd semester) to complete the course i.e., AI and DS of Bachelor of Technology (B.Tech) in 4th respondent College without any valid reasons and also not

considering the future of the students (petitioners son) as well as the application made by the petitioner for continuation and to completion of further course i.e., AI and DS of Bachelor of Technology (B.Tech) by the petitioners son is as illegal, arbitrary, unconstitutional and against the principles of natural justice and consequently direct the Respondents to allow the petitioners son to attend the further classes and to write the examinations to complete the course i.e., AI and DS of Bachelor of Technology (B.Tech) from the 4th respondent college by duly considering petitioners son education/future of the student as well as the application of the petitioner dated 30.01.2025 and to pass

5. Admittedly, the son of the Writ Petitioner is a student studying B.tech Course in Respondent No.4 - College. The son of the Writ Petitioner is aged about 20 years. On the last hearing, this Court has indicated that the father of the student is not entitled to file Writ Petition, inasmuch as the aggrieved student himself is a major.

6. In this view of the matter, learned Counsel for the Petitioner in both the Writ Petitions has filed Interlocutory Application Nos.1 of 2025 seeking amendment of the Cause tile and the Affidavit filed in support of the Writ Petitions. Both the Interlocutory Applications are allowed today, *vide* separate Proceedings. Registry is directed to make necessary changes in the Cause Title in both the Writ Petitions.

7. Henceforth, reference to the Writ Petitioner would mean the aggrieved student by name Sri B.V.K. Koushik.

8. The Writ Petitioner is pursuing B.Tech Course in Respondent No.4 - College. While he was pursuing the 3rd Semester, the Writ Petitioner fell ill in two different spells. The Writ Petitioner could not attend the College between 19.08.2024 and 30.08.2024. He has submitted a Medical Certificate issued by the Medical Officer, Primary Health Centre, Boddam (Rajam), Vizianagaram District, dated 30.08.2024, indicating that the Petitioner is suffering from Acute Gastroenteritis and Widal Fever. The Medical Officer has certified his fitness from 30.08.2024 onwards.

9. The Writ Petitioner has again fallen ill and could not attend classes. The Medical Certificate issued by the Medical Officer of Primary Health Center would indicate that the Writ Petitioner had suffered from Typhoid Fever and was absent and could not attend classes from 21.10.2024 to 31.10.2024. The Doctor had certified the fitness of the Writ Petitioner from 30.10.2024 onwards. Both the Medical Certificates are placed on record in W.P.No.28673 of 2024 (Ex.P.2). *Vide* Order dated 06.12.2024, a learned Single Judge of this Court, while following the identical directions passed in W.A.No.1001 of 2024 (arising out of W.P.No.27638 of 2024 and batch), had directed the Respondents to receive the Examination Fee pending disposal of the Writ Petition. The Respondents have received the Examination Fee and permitted the Petitioner to appear in the Examination. After the declaration of result, when the Petitioner has noticed that his result has not been declared on the ground that there is no specific direction of this Court in W.P.No.28673 of 2024, the Writ Petitioner was constrained to file W.P.No.424 of 2025.

10. It is also stated by the learned Counsel for the Writ Petitioner that not only the result has not been declared, but the Petitioner was also not permitted to attend the classes for the 4th Semester.

11. My Predecessor, *vide* Order dated 07.01.2025, had directed to allow the Writ Petitioner to attend the classes for the course of Artificial Intelligence and Data Science (AI & DS) of Bachelor of Technology. The Writ Petitioner, as such, is now attending the classes in compliance with the Interim Order passed on 07.01.2025 (in W.P.No.424 of 2025).

12. Coming to the merits of this case, the facts relating to the Writ Petitioner are already narrated hereinabove.

13. Learned Counsel appearing for Respondent No.4 - College has drawn the attention of this Court to the Regulations filed along with Counter-Affidavit in W.P.No.28673 of 2024. He has drawn the attention of this Court to the Academic Regulation No.9 dealing with the attendance requirement. The

relevant portion of the Academic Regulation No.9 is usefully extracted hereunder:

“9. Attendance Requirements:

If his/her academic progress and conduct have been satisfactory...

- a. It is desirable for a candidate to put on 100% attendance in all the subjects. However, a candidate shall be permitted to appear for the semester end examination by maintaining at least 75% of attendance on an average in all the courses in that semester put together.*
- b. The shortage of attendance on medical grounds can be condoned to an extent of 10% provided a medical certificate is submitted to the Head of the Department when the candidate reports back to the classes immediately after the leave. Certificates submitted afterwards shall not be entertained. Upon the payment of the Condonation fee as fixed by the college, students who put on attendance between $\geq 65\%$ and $<75\%$ shall be permitted to appear for the semester end examinations. Attendance may also be condoned as per the State Government rules for those who participate in sports, co-curricular and extra-curricular activities provided their attendance is in the minimum prescribed limits for the purpose and recommended by the concerned authority.*
- c. In case of the students having overall attendance less than 65% after condonation shall be declared detained and has to repeat semester again.”*

14. Learned Counsel appearing for Respondent No.4 - College has drawn the attention of this Court to Academic Regulation 9 (b) of the said Regulation and would submit that even on the medical grounds, absence of the candidate can be condoned only to the extent of 10% for the attendance. He would submit that in view of this Regulation, the absence of the Petitioner on medical ground would exceed the 10% mark of attendance and therefore the case of the Writ Petitioner cannot be considered.

15. The Court has bestowed its consideration on the facts of the case as well as the Academic Regulations, particularly Regulations 9(a), 9(b) & 9(c). These are the regulations fixed by a Private Institution.

16. It is an admitted fact that the Petitioner had illness in two spells. Ones between 19.08.2024 to 30.08.2024 on account of Acute Gastroenteritis and Widal Fever (Typhoid Fever/Paratyphoid Fever). The second spell was between 21.10.2024 to 31.10.2024 on account of Typhoid Fever. The cause of illness is supported by the Medical Certificates issued by the Medical Officer, Primary Health Centre, Boddam (Rajam), Vizianagaram District, dated 30.08.2024 (Both Certificates are marked as Ex.P.2). Along with the Medical Certificates, the Petitioner has also placed on record the Diagnostic Reports which indicate very clearly that there is no falsehood with regard to the claim of illness made by the Writ Petitioner.

17. The Regulation 9 (b) would indicate that even on medical grounds, lack of attendance can only be condoned to an extent of 10 % and not more than that. Therefore, this Court is required to examine whether such Regulation would stand to the test of Article 14 of the Constitution of India.

18. It is a matter of common knowledge that sickness is beyond the human control. A variety of sicknesses can impair the functioning of the human being, thereby disabling the human being from attending to the normal duties. With respect to the things which are beyond the control of a human being, no specific Regulation can be issued, prescribing a limit for condonation of absence beyond a particular percentage of attendance.

19. The present Regulation is not a Regulation which is prescribed by a Public Institution, but it is a Regulation prescribed by the Private College, which is Respondent No.4 - College, in the form of Academic Regulations.

20. On the face of it, the Regulation No.9 (b) is not only irrational but highly arbitrary, inasmuch as no hard and fast rule can be laid with regard to the absence of a student on medical ground.

21. It is admitted that instead of the prescribed 70% of the attendance, the Petitioner has 51% as per the Counter-Affidavit filed by the Respondent No.4 - College.

22. Learned Counsel for the Writ Petitioner, at this stage, has drawn the attention of this Court to a Representation made by the father of the Writ Petitioner (Ex.P.1) (in W.P.No.28673 of 2024) indicating that the College has informed the father of the Writ Petitioner that the Writ Petitioner has 57.5% attendance and the shortage is only 7.5% if 65% is taken as the minimum attendance requirement.

23. The Division Bench of the Hon'ble High Court of Patna, in ***All India Students Federation vs. The State of Bihar & Others***, reported in 2016 SCC OnLine Pat 7383, held that a Student cannot be mechanically made to suffer penal consequences on the mere shortage of attendance below 75%. The relevant portion of the Judgement is usefully extracted hereunder:

31. Thus, just because the attendance of a student has fallen below the prescribed attendance of 75%, the penal consequences, as mentioned in Regulation 5, will not automatically follow in the event of a prayer made by the student citing the grounds for his absence. The Principal or the Vice Chancellor, as the case may, are duty bound to consider whether the lack of attendance was deliberate and was in conscious disregard of norms of College. In a case, when the absence from classes was not in defiance of the Authority or a deliberate conduct on the part of the student, the discretion to condone the attendance has to be, ordinarily, exercised in favour of the student in view of the severe consequences likely to follow if such discretion is not exercised.

32. A Teacher, let us bear in mind, faces the challenge of shaping the career of students so that they can become useful citizens of the Nation and, thus, contribute towards its development. In view of the responsibility cast upon the Teacher, whenever circumstances arises for taking punitive measures against a student, he has to be very cautious in his approach, because the punitive measures may ruin the career of his students. It is in this backdrop that we propose to deal with this case.

36. Though a dispute has been raised as to actual number of students, who have been debarred from taking their examinations, yet, irrespective of the stand taken by the respondents, as to the actual number of students, who were prohibited from taking the examinations, it would appear from the pleas taken by the Vice Chancellor and the Principal that the reasons assigned by them are omnibus in nature, for instance, inter alia, "in order to ensure academic discipline, to complete curriculum within stipulated time

frame, for those students who fail to attend the minimum required 75% classes it necessarily implies that they are not seriously undertaking his/her studies". The grounds, so taken, particularly, by the Vice Chancellor and the Principal are basically the objective behind Regulation 4. It is with a view to achieve higher standards of academic career that Regulation 4 provides for a minimum of 75% attendance. However, in no circumstances, it would mean that those students, who fail to attend the minimum required 75% classes, a necessary inference can or most be drawn that they are not seriously undertaking their studies. Such an inference would render the provisions of Regulation 5 otiose.

56. *At the same time, we must also note the evolution of the law on the writ of mandamus In the form of pronouncement of Supreme Court, in Comptroller and Auditor General of India v. K.S. Jagannathan ((1986) 2 SCC 679 : AIR 1987 SC 537), wherein the Supreme Court, with respect to exercise of discretionary powers by the authorities, held that though the High Courts in India, exercising their Jurisdiction under Article 226 of the Constitution of India, have the power to issue a writ of mandamus or a writ in the nature of mandamus or to pass orders and give necessary directions where the Government or a public authority has failed to exercise or has wrongly exercised the discretion conferred upon it by a statute or a rule or a policy decision of the Government or has exercised such discretion mala fide or on irrelevant considerations or by ignoring the relevant considerations and materials or, in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred. In all such cases and in any other fit and proper case, a High Court can, In the exercise of its jurisdiction, under Article 226 of the Constitution of India, issue a writ of mandamus or a writ in the nature of mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the Government or a public authority, and, in a proper case, in order to prevent injustice resulting to the concerned parties, the Court may itself pass an order or give directions, which the Government or the public authority should have passed or given, had it properly and lawfully exercised its discretion.*

57. *It is, therefore, not only permissible, but may become necessary, in a given case, for the High Court to issue, by invoking its extraordinary Jurisdiction under Article 226 of the Constitution of India, a direction to the authority concerned how to exercise its discretion and/or the manner in which the discretion ought to have been exercised. The relevant paragraph of Comptroller and Auditor General of India (supra) is being reproduced as follows:*
"19. There is thus no doubt that the High Courts in India exercising their Jurisdiction under Article 226 have the power to issue a writ

*of mandamus or a writ in the nature of mandamus or to pass orders and give necessary directions where the Government or a public authority has failed to exercise or has wrongly exercised the discretion conferred upon it by a statute or a rule or a policy decision of the Government or has exercised such discretion mala fide or on irrelevant considerations or by ignoring the relevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred. **In all such cases and in any other fit and proper case a High Court can, In the exercise of its Jurisdiction under Article 226 issue a writ of mandamus or a writ in the nature of mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the Government or a public authority, and in a proper case, in order to prevent injustice resulting to the concerned parties, the Court may itself pass an order or give directions which the Government or the public authority should have passed or given had it properly and lawfully exercised its discretion.***

58. The present case reveals an extremely sad approach of educationists. In such an emergent case, as the one At hand - when every moment is painful to pass - if the Court delays or hesitates to step in and issue appropriate directions, the consequences would be too disastrous inasmuch as it may severely shake the confidence of the people in the ability of the Courts to maintain rule of law and do justice. Hence, in view of the fact that the announcement or publication of the result of the examinees, who have already appeared in their respective examination, has been stayed by this Court, any further delay may cause immeasurable harm to the candidates, who have already appeared as examinees in their respective examinations. We, therefore, direct that the Principal, Patna Women's College, to condone the attendance of all those students, who have inadequate attendance to the extent of 70%. We also direct the Vice Chancellor, Patna University, to condone the attendance of those students, who have inadequate attendance up to 60%. All these students be allowed to appear in their respective examinations within a period of 15 days from today. The results of the examination of the students, who have already appeared in their respective examinations, be published and declared along with the results of examinations of those students, whose inadequate attendances have been directed to be condoned by us. The entire result shall be declared within the scheduled date so that the students do not suffer any further. Upon publication of the results, the Vice-Chancellor of the Patna University and the Principal, Patna Women's College, shall lay before this Court a comprehensive report so as enable this Court to give such further direction(s) as may be warranted by the facts and attending circumstances of the present case.

24. In the light of the above decision, this Court is of the opinion that the Writ Petitioner deserves indulgence from this Court.

25. There shall be a direction to Respondent No.4 - College to publish the result of the 3rd Semester and also to permit the Writ Petitioner to continue to attend the classes for the 4th Semester.

26. Needless to state that the Official Respondent Nos.1 to 3 as well as the Respondent No.4 - College shall permit the Writ Petitioner to continue with the course without any interruption, subject to compliance of the other Regulations in the future.

27. Accordingly, both Writ Petitions stand allowed. No order as to costs.

28. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt: 06.05.2025

Note: Issue C.C. by 08.05.2025

B/o

DSV