

* **THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Writ Petition (Civil) No.3225/2008**

% Date of Decision : April 25, 2008

Shri Satyendra Singh Petitioner

Through : Mr. Ratnesh Kumar Thakur,
Advocate

Versus

University of Delhi & Anr. Respondents

Through : Mr. Mohinder Rupal,
Advocate

CORAM:

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether the judgment should be reported in the Digest ? Yes

SUDERSHAN KUMAR MISRA, J : Oral

1. This writ petition has been posted for urgent hearing at 3.45 p.m. today by a special order. The petitioner is a student of LL.B First Year at the Law Centre-II, Faculty of Law. He is also a handicapped person. He prays that a direction be issued to the respondents, "to issue examination admit card to the petitioner so as to enable him to appear in the examination of LL.B First Year, Second Semester, starting from 28th April, 2008."

2. The petitioner rests his case on the fact that he met with

an accident on 16th January, 2008 and was thereafter hospitalised upto 19th January, 2008. While at hospital, the petitioner underwent an operation. On 19th January, 2008, he is stated to have been discharged. He thereafter revisited the hospital on 30th January, 2008, when the sutures that had been applied pursuant to his operation, were removed. On that date, according to the petitioner, he was advised rest for four weeks. The petitioner states that he ultimately recovered from his ordeal on 26th February, 2008 and started attending classes thereafter. In this way, the petitioner was admittedly absent from 16th January, 2008 to 26th February, 2008.

3. He states that the attendance list was put up at the Law Centre on 21st April, 2008. As per this list, the petitioner was shown to have attended 103 lectures out of 173 lectures and consequently, his attendance worked out to 59.54%. He states that on the very next day, i.e. 22nd April, 2008, he had applied for the requisite attendance certificate. He also claims to have submitted relevant papers seeking waiver/ condonation of delay in terms of the rules on the ground that his is an exceptional case that deserves relaxation. In support of his claim for relaxation, petitioner has also annexed the attendance rules applicable to his case at page 18-A of the petition titled "Attendance, Examination and Promotion Rules for First Year LL.B Programme".

The relevant portion of this rules reads as follows :

"1. Students pursuing LL.B programme are required to attend 66% of the lectures in each subject including moot courts and practical training.

2. In exceptional cases for reasons to be recorded and communicated to the Bar Council of India, the Dean of the Faculty of Law/ Professional-in-Charge of the Law Centre may condone attendance short of those required by this Rule, if the student had attended 66% of the lectures in the aggregate

per semester examinations.”

A perusal of these rules shows unequivocally that students pursuing the LL.B course are required to attend 66% of the lectures in each subject. However, in case the student has attended 66% of the lectures in the aggregate per semester, but falls short of the aforesaid requirement of having attended 66% of the lectures in each subject, then, in, “exceptional cases”, and for reasons to be recorded and communicated to the Bar Council of India, the Professor Incharge of the Law Centre is empowered to condone the shortfall between the requirement of attending 66% of the lectures in each subject and the aggregate of 66%. Looking to this requirement, it is obvious that for a shortage in attendance to be condoned, two requirements must be fulfilled – first, that the case must be an exceptional one, and second, that the student concerned must have attended at least 66% of the lectures in the aggregate, per semester. In the instant case, even if it is assumed that the first requirement is satisfied, and that the petitioner's case is indeed exceptional, there is no gainsaying the fact that the petitioner unfortunately does not satisfy the second requirement. His aggregate attendance is admittedly 59.54% which is woefully short of the required 66%. To put it differently, for a student to be eligible for consideration for condonation of the shortfall in his attendance, it is imperative that he attends at least 66% of the lectures in the aggregate. In that view of the matter, it is obvious that the petitioner does not fall within the type of cases that are entitled to consideration for condonation. Mr. Rupal, who has appeared in response to an advance notice, has brought to my attention a decision of the Division Bench of this Court in the case of ***S.N. Singh Vs. Union of India & Ors.*** reported as **2003 IV AD**

(Delhi) 378 where also, the question of relaxation in attendance granted to LL.B students studying at the Faculty of Law, University of Delhi was examined. In that case, this Court had held that, “a law course cannot be equated with the normal academic course. Attendance of lectures, tutorials and seminars is very essential to train the law students. Under the Advocates Act, 1961, the Bar Council of India has been empowered amongst others, 'to permit legal education and to lay down standards of such education'.” Thereafter, this Court had held that although under the ordinances and rules framed by the Academic Council of the Delhi University, relaxation of shortage of attendance upto 10% was permissible to college students and the Academic Council, in exceptional cases, is empowered to grant further relaxation, however, the examination rule framed by the Bar Council of India makes a different provision for relaxation. It held that, “the Bar Council of India Rule requires 66% attendance in each paper and empowers relaxation in a particular paper, provided however total attendance in all papers is 66%.” It further held that;

“23. Since the Bar Council of India recognises the LL.B. Degree Course of the University of Delhi and the Bar Council of India is a statutory body constituted under the Advocates Act, 1961 and is empowered to lay down standards of legal education, University of Delhi would be required to bring its rules in conformity with the rules of the Bar Council of India.”

It was in these circumstances that a direction came to be issued to the University of Delhi to amend its Examination and Promotion Rules in the matter pertaining to attendance and bring them in conformity with the corresponding rules framed by the Bar Council of India. In that case, another argument raised by the petitioner that was

examined by the Court was that since in the past, the University had been waiving attendance rules without any outer limit to relaxation in the interest of equity and justice, this also should not be disturbed by the Court. This argument was emphatically turned down by this Court with the finding that, “no one can have a legitimate expectation that an academic body will go about relaxing norms without application of mind.” In that case, although a number of students had been allowed to sit for the examinations subject to the outcome of that writ petition, ultimately, their petitions were dismissed, and the admissions to the next semester granted on the basis of interim orders permitting them to sit for the examination, of all those students, were quashed. In this case also, learned counsel for the petitioner has sought to urge that simply because the petitioner is faced with exceptional circumstances inasmuch as he is physically handicapped and on top of that, he met with an accident which prevented him from attending classes for nearly 40 days, therefore, the attendance requirements must be relaxed in his case. I am afraid, such a relief cannot be granted to the petitioner for the same reason as was recorded in the aforesaid case of **S.N. Singh** (supra). There also, the request of a number of students claiming relaxation on a number of grounds, including, inter alia, viral fever or other medical complications, was unequivocally turned down.

4. My attention has also been drawn to two more decisions of this Court in this respect by the learned counsel appearing for the respondent. In another case filed by the same petitioner, i.e., **S.N. Singh Vs. Delhi University** decided by a Division Bench of this Court on 5th December, 2006 in **WP(C) No.7701/2005**, it was unequivocally stated as follows :

“In view of the aforesaid stand now taken by all the parties hereto, we are of the considered opinion that to be able to appear in the examination for obtaining the degree of LL.B, a student has to have a minimum attendance 66% of the lectures on each of the subjects. However, there is a proviso added thereto that in exceptional cases for reasons to be recorded and communicated to the Bar Council of India the Dean of the Faculty of Law and the Principals of the Law Colleges shall have the power and the jurisdiction to condone attendance short of what is required by the rule, if the student have attended 66% of the Lectures in the aggregate for the semester of examination as the case may be. The aforesaid provision mandates that a candidate must have minimum attendance of 66% of the lectures on each of the subject to enable him to appear in the LL.B examination, subject to the condition mentioned in the proviso.

Considering the aforesaid position, we are also of the opinion that the aforesaid provision being mandatory in nature should be strictly adhered to and be complied with by the respective colleges. If there is any violation of the said rules, it would be open to the petitioner..... Authorities and also to the notice of the Bar Councils and when such violation is noticed, appropriate remedial measures shall be taken by the University Authorities, Bar Council of Delhi and the Bar Council of India. It is also made clear that the University Authorities shall not allow any deviation from the requirements of Rule 4 of section A of Part IV of the Bar Council of India. Rules unless they receive specific permission from the Bar Council of India.”

This Court also agreed with the rationale of the earlier decision of the Division Bench in ***S.N. Singh Vs. Union of India & Ors.*** (supra). It may be noted that the aforesaid earlier decision came about on a writ petition seeking directions that all three Law Centres in Delhi must necessarily take the attendance rules seriously and adhere to them strictly. In the later decision, this Court also reproduced with approval the following portion of the earlier decision in ***S.N. Singh Vs. Union***

of India & Ors. (supra) which, to my mind, is relevant in this case

also :

“Para 21. We find force in the submission of the Ld. Counsel for the petitioner in respect of the first four submissions noted as above. A Law Course cannot be acquitted with a normal academic course. Attendance of lectures, tutorials and seminars is very essential to train the law students. Under the Advocates Act 1961, the Bar Council of India has been empowered,. Amongst others, “to promote legal education and to lay down standards of such education”. The Bar Council of India has framed statutory rules which bind all institutions conferring LL.B Degree Course which are recognized by the Bar Council of India. Section 4 of the Delhi University Act 1922, empowers the University to confer degrees of students who have pursued as course of study in the University or in any college attached or affiliated to the University. No student can be deemed to have pursued a course of study who does not comply with the various requirements prescribed under the Act, Statute, Ordinances or Rules framed by the Academic Council. Needless to state that the Academic Council is the Supreme Academic Body of the University. Clause 8 of Ordinance 7 clearly provides that no student shall be deemed to have pursued a regular course of study unless he has attended at least two-thirds proviso permits relaxation of shortage of attendance upto 10%. Thus, as per the attendance norms prescribed under the Ordinance, pertaining to LL.B Degree Course, shortage of attendance beyond 10% is not permissible. However, the Academic Council in exceptional cases is empowered to grant a further relaxation. The examination rules framed by the Bar Council of India also provides for relaxation, but makes a different provision for relaxation. The Bar Council of India requires 66% attendance in each paper and empowers relaxation in a particular paper, provided however total attendance in all the papers is 66%. The Academic Council decision to accept the Justice V.S.Deshpande Committee recommendation is thus a resolution limiting the exercise of power of relaxation unanimously adopted by the Academic Council. The Academic Council would thus be bound by its own resolution. The decision not to grant relaxation was a conscious decision

not to grant relaxation was a conscious decision taken for which a high powered Committee was considered and was taken in the interest of legal education.”

Para 22. Since the Bar Council of India recognizes the LL.B Degree Course of the University of Delhi and the Bar Council of India is a statutory body constituted under the Advocates Act 1961, and is empowered to lay down standards of legal education, University of Delhi would be required to bring its rules in conformity with the rules of the Bar Council of India.

Para 23. The Respondent No.1 is thus issued a direction to amend its examination and promotion Rules in the matter pertaining to attendance to bring them in conformity with the corresponding rules framed by the Bar Council of India.

Para 31. In matters pertaining to education no Court can permit total violation of the norms. LL.B Degree Course is expected to produce trained legal minds, ready to take on the challenges of the 21st Century. Decline in education norms in professional law courses was noted by the Supreme Court as far back as 1989. In the judgment reported as AIR 1989 1541 titled Baldev Raj Sharma vs Bar Council of India, it was observed that there is a substantial difference between a course of study pursued as a regular student and a course of study pursued as a private candidate. It was observed that regular attendance for the requisite number of lectures, tutorials etc. has a purpose. Rules framed by the Bar Council of India were upheld.”

Relying on the above judgments, a Single Judge of this Court in the case of **Smt. Deepti Vs. Vice Chancellor and Ors. WP(C) No.18051/2006** decided on 20th April, 2007, held as follows :

“Those who do not fall within the criteria of relaxation would obviously not have been eligible to sit for the semester examinations held on December, 2006 and there would be no question of the declaration of the result of the papers in which they have appeared pursuant to interim orders passed by this Court.”

5. In view of these judgments mentioned above, I have no doubt that regrettably, despite exceptional circumstances, the

petitioner cannot claim relaxation of the attendance criteria.

6. Consequently, the writ petition is without merit and is dismissed.

Sudershan Kumar Misra, J.

April 25, 2008
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