

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

Date of decision: 6th July, 2010.

+ **W.P.(C) No.2593/2010**

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MS. SIMARAN KAUR

..... Petitioner

Through: Ms. Sangeeta Kumari & Mr. Ratneswar
Das, Advocates.

Versus

THE VICE-CHANCELLOR & ORS.

..... Respondents

Through: Ms. Preeti Maniktalya for Ms. Mohinder
J.S. Rupal, Advocate for R-1,2&4.
Mr. Sushil Trivedi & Mr. P.K. Agarwal,
Advocates for R-3.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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| 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 |

RAJIV SAHAI ENDLAW, J.

1. The petitioner, aged about 21 years and a student of B.A. (Hons.) Economics of the respondent no.3 Hans Raj College, instituted this petition a few days before commencement of the examination held by the respondent no.1 University of Delhi (to which Hans Raj College is affiliated) for quashing the order dated 15th April, 2010 of the respondent no.2 Dean of Examination of the University of Delhi refusing permission to the petitioner to appear in the examination and for a direction to allow her to take the examination. This Court vide order dated 19th April, 2010 while issuing notice of the petition, as an interim

measure allowed the petitioner to sit in the exams but with the condition that owing thereto no special equities will flow in favour of the petitioner and that the result of the petitioner will be kept in a sealed cover. The respondent University of Delhi has contested the petition. The counsels have been heard.

2. The respondent University of Delhi had refused permission to the petitioner to appear in the exam for the reason of the petitioner having not filled up the forms required to be so filled up for appearing in the examination and having not paid the prescribed fee. The last date prescribed as per the guidelines of the respondent University of Delhi for submitting the forms and payment of the fee was 15th October, 2009. The petitioner admittedly neither filled up/submitted the form nor paid the fee. The petitioner has not given any long drawn explanation for the same. She has simply stated that she has been residing in the hostel of the College, had gone to her native place during Dusshera vacation and has fairly admitted her negligence and oversight in not filling up the form and paying the fee and has in the writ petition itself sought apology from all concerned for the same. The petitioner learnt of her such default in the end of March, 2010, when the examinations were to commence on 20th April, 2010. The petitioner immediately approached her college and filled up the form and paid the fee; the same was forwarded by the College to the University and ultimately rejected by the University as aforesaid on 15th April, 2010 i.e. few days before the commencement of the examination.

3. The counsel for the University of Delhi has contended that the University is bound by its own procedures, Rules & Regulations governing its functions and it is incumbent to follow the same; that the University cannot adopt a special procedure for an individual. The University in its counter affidavit handed over in court has relied on its Regulation as under:-

“Provided that an application for admission to an examination may be entertained or the fees may be accepted in a special case after the expiry of the prescribed date on payment of a penalty as per revised schedule notified on 19th September, 2009. No application for an examination shall be accepted, for any reason whatsoever, beyond 15 days before the commencement of the said examination.”

It is pleaded that the petitioner approached the University only on 5th April, 2010 when the examinations were to commence on 20th April, 2010 and did not even make out any “special case” for her default; rather admitted her mistake.

4. From the documents filed by the petitioner and the counter affidavit of the College, it is borne out that the petitioner got the pay order for payment of the fee prepared from the Bank on 31st March, 2010 and on the same day submitted the same to the Principal of the college; the Principal of the college forwarded the same to the University under cover of letter dated 31st March, 2010. The same were received by the University of Delhi before 5th April, 2010. However the same was not accompanied with any application citing any “special case” to have been made out for late acceptance. It appears that upon being so informed, the petitioner on 5th April, 2010 submitted another letter addressed to the Vice Chancellor of the University to the College and the College forwarded the same to the University on

5th April, 2010. The petitioner states that she was not aware of the requirement to submit such application and submitted the same on being asked by the College.

5. I have enquired whether the petitioner had been attending the classes of 3rd year in the College. The answer is in the affirmative. It thus cannot be said that the petitioner had abandoned or relinquished her education or was not serious about it. In so far as the contention of the University of the petitioner having not made out any special case is concerned, the matter has to be seen from the perspective of the petitioner. The petitioner is a 21 year old staying in a hostel, without the reminders of the parents. The petitioner has been forthright enough to admit her mistake and negligence rather than cook up a story. The incident has to be seen in the perspective of youth of the petitioner. Aristotle said “Young people are in a condition like permanent intoxication because youth is sweet and they are growing”. The follies of youth were again emphasized by Oscar Wilde by observing “To get back one’s youth one has merely to repeat one’s follies”. The circumstances disclosed by the petitioner, in my opinion do make out a special case.

6. The majesty of law is in allowing the petition. A full academic year out of the life of a student studying far away from her residence and who has studied and attended classes throughout the year, ought not to be allowed to be wasted. None will gain therefrom. Rather in holding back the petitioner in her career the University and the Court may nip the enthusiasm and the lure for learning of the petitioner and may ruin not only her career but her life. The duty of the University

as also of this Court is to nurture the career, not damage it. The Rule cited by the respondent University cannot be interpreted in a pedantic manner. Rules are for men and men are not for Rules. The hyper technicality of the Rule cannot be allowed to come in the way.

7. The counsel for the respondent University has expressed apprehension that if such delays are condoned and relief granted by the Court the same may become a precedent and may throw out of gear the entire calendar of the University. I can well understand that the University, well before holding the examination is required to arrange for the same. It certainly cannot be expected to arrange the examination for lakhs or thousands of students when it has received applications from only hundreds. However, when it is found that the student can easily be accommodated in the scheduled exam and further when the delay on the part of the student, even if negligent, is found to be *bona fide* and the student otherwise is found to have been pursuing studies diligently, there is nothing in the Regulation aforesaid of the University to prevent such a student from taking the exam. However, no general principle can be laid down. A student who has not even attended classes or who has otherwise been guilty of misconduct or of repeated defaults, in similar circumstances may not be entitled to the relief. From the facts of the present case, the petitioner is made out to be a good student and is pursuing one of the premium courses in a premium College. She is certainly entitled to the benefit of the power vested in the University under the Regulation aforesaid.

8. The petition is accordingly allowed. The petitioner is found to have made out a special case for her belated application for taking the examination to be entertained by the University within the meaning of the Regulation aforesaid.

9. Accordingly, the order of the University dated 15th April, 2010 refusing permission to the petitioner to appear in the examination is quashed. The interim order directing the result of the petitioner to be kept in a sealed cover is vacated. The result of the petitioner be now declared within one week and/or together with the result of her batchmates if not declared till now.

The writ petition is disposed of.

No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

6th July, 2010

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(corrected & released on 19th July, 2010)