

REPORTABLE

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

+ LPA No. 191/2011

Judgment reserved on : 25th February, 2011
% Date of Decision: 3rd March, 2011

Vibhor Anand Appellant
Through Mr. V.K. Anand, Advocate.

VERSUS

Vice Chancellor, Guru Gobind Singh
I.P. University & Ors. Respondents
Through Mr. O.P. Saxena, Advocate.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

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

SANJIV KHANNA, J.

CM No. 4148/2011 (for exemption)

Allowed, subject to all just exceptions.

LPA No. 191/2011

The appellant Vibhor Anand has filed the present intra court Appeal assailing the judgment dated 7th December, 2010, dismissing his Writ Petition (Civil) No. 3163/2010.

2. The appellant was denied permission to appear in the Sixth Semester End-term Examination for shortage of attendance. This action of the respondent-University School of Law and Legal Studies, Guru Gobind Singh Indraprastha University was challenged/questioned. The appellant also challenged appointment of the Dean of University of Law and Legal Studies and made a prayer for striking down her appointment. As noticed above the challenge has been rejected by the learned single judge.

3. The appellant, by an interim order passed in the above writ petition, was permitted to appear in the Sixth End-term Examination but his result was directed to be kept in a sealed cover. It may, however, be noted that the appellant has not attended the seventh Semester classes, which were held in the second half of 2010.

4. Learned single Judge has held that the appellant has attended only 28.5% classes in the Sixth Semester as against the requirement of 75%. The learned Single Judge has also referred to the stand of the

respondent that the appellant had cleared 5 out of 30 papers and that he had been reappearing in several papers but repeatedly failing. He was allowed to appear in the Sixth Semester Examination owing to the policy of allowing promotion upto Sixth Semester on the condition of clearing the requisite papers. The impugned judgment records that the appellant has not cleared the requisite number of papers which are required to get promotion from Sixth Semester to Seventh Semester.

5. We have heard the appellant who appeared in person and his father who is a practicing Advocate. They have alleged and stated that the attendance record of college is forged and fabricated. Our attention was drawn to the allegations made in the appeal that on 10th May, 2010, the previous counsel who had appeared for the respondent University had stated that the appellant had attended 67 lectures out of 229 lectures but as per the records produced, the appellant had attended 55 lectures out of 193 lectures. It is further stated that as per the chart placed on record a total of 229 lectures were held, but in the case of the appellant as per the chart 193 lectures were held. The appellant has contended that he had participated in the Common-

wealth Games and, therefore, he is entitled to remission/addition to the recorded attendance. It is further alleged that he is entitled to 25% attendance for participating in activities like moot courts and attending seminars, etc.

6. LL.B. is a professional course and the need for attending the requisite lectures has been repeatedly emphasized and highlighted by this Court. In ***S.N. Singh Vs. Union of India (UOI) and Ors.*** 106 (2003)

DLT 329, it was observed by a Division Bench of this Court:-

“27. We find force in the submission of the learned counsel for the petitioner in respect of the first four submissions noted by us above. A law course cannot be acquitted (sic. equated) 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 recognised 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 a 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 of the total number of lectures delivered in each year. The proviso permits relaxation of shortage of attendance up to 10%. Thus, as per the attendance norms prescribed under the Ordinances, 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 Rule framed by the Bar Council of India also provides for relaxation, but makes a different provision for relaxation. 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 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 taken for which even a high powered Committee was constituted and was taken in the interest of legal education.

36. 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 [1989]2SCR862 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. Whatever be the equities, we cannot permit a total violation of the norms. Promotion of all students who have cleared only 4 or 14 papers respectively to the third term and fifth term are thus quashed.”

7. Similar observations have been made in **Shri Satyendra Singh Vs. University of Delhi and Anr.** 2008 (103) DRJ 97.

8. This court in **Sukriti Upadhyay Versus University of Delhi**, decided on 04.10.2010, has observed :

“14. Before parting with the case, we are obliged to state that the field of legal education has its own sacrosanctity. With the passage of time, the field of law is getting a larger canvas. A well organized system for imparting of education and training in law has become imperative. In a democratic society where the rule of law governs, a student of law has a role to play. Roscoe Pound has said "Law is experience developed by reason and applied continually in further experience". A student of law has to be a dedicated person as he is required to take the study of law seriously as pursuit of law does not countenance any kind of idleness. One may conceive wholesome idleness after a day's energetic and

effective work. An active mind is the mother of invention. A student prosecuting study in law, in order to become efficient in the stream of law, must completely devote to the learning and training. One should bear in mind that learning is an ornament to continuous education and education fundamentally is how one engages himself in acquiring further knowledge every day. If a law student does not attend lectures or obtain the requisite percentage of attendance, he cannot think of taking a leap to another year of study. Mercy does not come to his aid as law requires a student to digest his experience and gradually discover his own ignorance and put a progressive step thereafter.”

9. Original records were produced before the learned Single Judge and on that basis, the learned Single Judge had accepted the contention of the respondent that the appellant had attended only 28.5% of the total lectures though the minimum requirement is 75%. It was not disputed that the requirement of 75% is fixed and stipulated. Accordingly, learned single Judge has observed that it was difficult to accept the contention of the appellant that he had attended classes but his attendance was not marked and that the respondent had fabricated the records. We agree with findings and observations of the single judge in this regard. We may add that it is difficult to accept that the

attendance record can be forged as attendance is marked by different teachers on day to day basis. Attendance records cannot be challenged on mere ipse dixit and by making vague allegations. Otherwise it will result in needless and futile litigation. Unless imperative and justified grounds ex-facie are shown to exist, writ courts should be reluctant to get embroiled and confounded in such factual disputes.

10. Regarding the statement made by the previous counsel with regard to the total number lectures, it has been stated in the appeal that the said statement was orally made in the court. This is neither here nor there. We are not inclined to go into the said aspect especially when the original records were produced before the learned Single Judge.

11. Further, even if the appellant is given credit for participating as a volunteer in the Commonwealth Games, it is difficult to accept that he should be given waiver or extra attendance for the entire short-fall of 46.5% in attendance. Learned Single Judge has mentioned that even if the appellant is granted grace of 40 attendance being voluntary trainee in Commonwealth Games, even then his attendance will be 49% which

is much below what is prescribed by the respondent university and the Bar Council of India. Similarly, even if some leverage is given for the moot courts etc., the entire short fall of 46.5% cannot be covered. It may be noted grace/extra attendance for moot courts etc. is subject to proof and cannot be granted on mere asking.

12. During the course of hearing, it was suggested to the appellant that he should re-join the Sixth Semester and attend classes. There was some reluctance on the part of the appellant. We wish to clarify that if the appellant wants to join Sixth Semester, the respondents will permit him to do so. However, he will be permitted to sit in the Sixth Semester End-term examination only if he has requisite attendance as per the rules and regulations. He should also meet other eligibility norms.

13. Allegations have been made against the Dean, School of Law and Legal Services. It was alleged that she does not have requisite qualifications and her appointment is illegal and contrary to law. It was made clear to the counsel for the appellant that the said question is separate and distinct and cannot be a ground to grant grace attendance to the appellant. We are not inclined to examine the said question in

this appeal. It is, however, clarified that the said question is left open and the appellant, if so advised, may file a separate Public Interest Litigation.

14. With the aforesaid observations, the appeal is dismissed but it is clarified that the second aspect has been left open and has not been examined. There will be no order as to costs.

(SANJIV KHANNA)
JUDGE

(DIPAK MISRA)
CHIEF JUSTICE

MARCH 3, 2011
KKB