

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

Date of decision: 11th January, 2011

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W.P.(C) 590/2010

SH. CHITRASEN GAUTAM

..... Petitioner

Through: Mr. Manoj Bansal, Advocate

Versus

JAWAHARLAL NEHRU UNIVERSITY & ORS.

..... Respondents

Through: Mr. Mohinder J.S. Rupal & Mr.
Arvind Varma, Advocates

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? | NO |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

RAJIV SAHAI ENDLAW, J.

1. The petitioner in the academic session 2008-09 was admitted to the M. Phil. Programme in the Centre for the Study of Law & Governance in the respondent No.1 University. The Cumulative Grade Point Average (CGPA) of the petitioner for the first two semesters was of 4.5. The Ordinance of the University relating to award of M. Phil. Degree, in Clause 8 thereof vests a discretion in the Committee for Advanced Studies and Research of the University to strike off from the rolls of the University the name of a student who *inter alia* fails to secure CGPA of 5.0 in the course work. The University vide its order dated 24th July, 2009 in exercise of powers under

Clause 8 of the Ordinance aforesaid removed the name of the petitioner from the rolls of the University with effect from 21st July, 2009. The petitioner was accordingly held not eligible to continue with the M. Phil. programme. Aggrieved therefrom, the present petition was filed on or about 27th January, 2010. It was pleaded in the petition that though the petitioner had represented to the University but the case of the petitioner was not considered. The order of removal of name was challenged on the grounds:

- (i) That the discretion had been wrongfully exercised against the petitioner; that in the academic session 2005-06 another student Ms. Rajni Bala also had the CGPA of 4.5 but was allowed to continue in the M.Phil. Programme.
- (ii) That the petitioner belongs to the reserved category and the University while providing for the minimum CGPA for continuing in the M. Phil. programme, not made any distinction between the reserved and the unreserved category candidates.
- (iii) That though under the Ordinance aforesaid, timely warnings were required to be provided to each student but no such warning was meted out to the petitioner.
- (iv) That the faculty members of the University were inimical towards the petitioner because he was a member of the Student Faculty Committee and taking firm stand for the benefit of the students.

- (v) That since the petitioner belongs to the reserved category, the University was required to provide him with remedial classes and which were not provided.
- (vi) That the petitioner was not permitted to continue inspite of the recommendation of the Equal Opportunity Office in his favour.

2. Notice of the petition was issued, though no interim relief granted.

3. The respondent University has filed a counter affidavit in which it is *inter alia* stated that the petitioner had suppressed material facts from this Court. It is informed that the petitioner had applied for re-evaluation of his case; that the Re-evaluation Committee had met on 20th to 24th August, 2009 but found that the petitioner had copied substantial sections from internet sources and selective books; that despite several written warnings, the petitioner had been indulging into repeated plagiarism; that the petitioner could manage 'C' grade in two papers in the second semester only after applying moderation; that repeated plagiarism constituted serious offence and the petitioner was not entitled to continue with the M. Phil. Programme on this ground alone. It is further pleaded that the petitioner on 9th September, 2009 had made another representation to the University and in pursuance where to a Special Committee was constituted which met on 30th October, 2009; that the Special Committee after examining the case including in the light of the judgment of the Supreme Court in ***Avinash Singh Bagri Vs. Registrar IIT, Delhi*** (2009) 8 SCC 220 and of this Court in

Amritashva Kamal Vs. JNU 2007 (99) DRJ 528 concluded that the petitioner was involved in substantial repeated acts of plagiarism and that repeated and intentional plagiarism cannot be condoned and that it was not simply a case of low CGPA.

4. The petitioner has filed a rejoinder in which the petitioner has not denied knowledge prior to the filing of this petition, of the decision of the Re-evaluation Committee and the Special Committee constituted on his representation. What has been pleaded is that if the respondents are accusing the petitioner of plagiarism, they ought to have proceeded against him in accordance with the procedure prescribed therefor and without the same cannot hold him guilty of plagiarism.

5. The removal of the petitioner was in July, 2009. The present petition was filed only after about seven months in January, 2010. Though the petitioner in the petition stated having made representations but expressly pleaded that the same were not considered. However, what has emerged is that the applications of the petitioner for re-evaluation of his grade and the representation of the petitioner against his removal were considered by the appropriate authorities of the University and for detailed reasons stated not accepted. The petitioner concealed all the said facts from this Court. The counsel for the respondent University is correct in contending that the grievance of the petitioner at the time of filing of the petition was not really against the removal order of 24th July, 2009 but against the order on his

application for re-evaluation and on his representation against his removal. The petitioner did not challenge the said orders. Rather the petitioner made an attempt to conceal the same from this Court. The counsel for the respondent University with considerable weight has contended that the petitioner wanted to conceal from this Court the charge of plagiarism against him fearing that notice even may not be issued in the petition. It is rightly contended that plagiarism as far as the M. Phil. programme is concerned has serious connotation.

6. I am of the view that the petition is liable to be rejected for the reason alone of concealment practiced by the petitioner. The petitioner did not approach this Court with clean hands. Whatever the petitioner has pleaded in the rejoinder with respect to the charge of plagiarism against him ought to have been pleaded in the petition if the petitioner was aggrieved therefrom.

7. Even on merits, I am satisfied that no error can be found with the decision of the academic authorities of the University in whom the discretion vested to strike off the name of any student from the M. Phil. programme who does not achieve the requisite minimum CGPA of 5.0. This Court cannot interfere with the decision taken by the academic authorities. No case for interference is made out.

8. Insofar as the argument of the counsel for the petitioner of the procedure required to be followed in a charge of plagiarism is concerned, the respondent University in its counter affidavit has stated that though the

petitioner was found guilty of repeated plagiarism inspite of written warnings but the respondent University not wanting to spoil the career of the petitioner in its discretion chose not to proceed against the petitioner for the same and let off the petitioner with the 'C' grade and with the removal of his name from the M. Phil. programme. As aforesaid, the petitioner chose not to challenge the charge of plagiarism against him in this writ petition. The University while choosing not to proceed against its student on a charge of plagiarism and which has serious consequences is however fully entitled to take the same into consideration for taking a decision as to whether to allow the student to continue with the programme or not.

9. No merit is found in the contentions of the petitioner of his being entitled to any remedial classes also. The petitioner at the time of undergoing the course did not seek any such classes. Even otherwise on the basis of the material no case of the petitioner being entitled to any remedial classes is made out.

There is no merit in the petition, the same is dismissed. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

JANUARY 11, 2011
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