

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) No. 2892/2011

% Judgment delivered on: 4th May, 2011

Amit Chaudhary Petitioner.

Through: Mr.Sanjeev Sharma, Adv.

versus

University of Delhi and Ors.. Respondents

Through: Mr.M.J.S.Rupal, Adv.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

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

KAILASH GAMBHIR, J. Oral

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1. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks quashing of the orders dated 24.01.2011 and 10.03.2011 vide which the

petitioner has been detained from appearing in the LL.B examinations.

2. Brief facts of the case relevant for deciding the present petition are that the petitioner took admission in the LLB course of the Delhi University after securing 795th rank in the entrance examination. That the petitioner had done a two year Post Graduate Diploma in Business Management (PGDBM) from Wigan and Leigh College(UK) which he claimed to be equivalent to an MBA degree. The Equivalence Committee of the respondent-University did not recommend the case of the petitioner and consequently the petitioner was debarred from appearing in the Ist semester examinations in November, 2010 and now in the IInd semester examinations. Feeling aggrieved with the action of the respondents, the petitioner has preferred the present petition.

3. Mr.Sanjeev Sharma, counsel appearing for the petitioner submits that after completing his graduation in B.Com (Hons.) the petitioner had appeared for the Management Aptitude Test (MAT) conducted by All India

Management Association(AIMA) and after qualifying the same he was admitted to Post Graduate Diploma in Business Management (PGDBM) course to be undertaken by Wigan and Leigh College(UK). Counsel further submits that the petitioner was permitted to appear in the LL.B entrance test examination conducted by the respondent No.2 on 30.05.2010 and the overall rank of the petitioner was 795 out of the total seats of 2310 offered by the respondents for admission in the LL.B course. Counsel further submits that the petitioner was called for counseling by the admission committee of the respondent No.2 on 16.06.2010 and was directed to deposit the fees which he had deposited vide receipt No.9488 on the same day. Counsel also submits that in fact the petitioner had attended classes of the first semester and his attendance in the first semester was 95%. Counsel further submits that in the month of November,2010 the petitioner was asked to submit a representation with regard to his course of PGDBM for consideration of the same by the Equivalence Committee of the respondents. Counsel

also submits that to the shock and surprise of the petitioner he was asked not to appear in the first semester examinations of LL.B till a decision is taken by the Equivalence Committee on his representation. Counsel further submits that the petitioner made various representations to the respondent No.4 for the consideration of his case and it is only on 17.03.2011 that the petitioner received a letter dated 10.03.2011 from the respondent No.3 informing the petitioner that the decision already taken by the University vide their letter dated 24.01.2011 is reiterated. Counsel further submits that after having received the said communication dated 10.03.2011 the petitioner made repeated visits to the office of the respondent No.1 besides sending several e-mails, but the petitioner was not granted any opportunity of personal hearing to explain the Equivalence of the said PGDBM to MBA.

4. The main argument taken by counsel for the petitioner is that the petitioner never suppressed any fact about his qualification from the respondents and had truly

and correctly disclosed about his possessing the qualification of PGDBM course. Counsel further submits that the Equivalence Committee should have given a personal hearing to the petitioner for explaining and satisfying the members of the said committee with regard to the equivalence of the said two courses i.e. PGDBM with MBA. Counsel further submits that the petitioner would lose one precious year of his career if his admission in the LL.B course is not regularized.

5. Opposing the present petition, Mr.Rupal, learned counsel appearing for the respondents submits that a meeting of the Equivalence Committee of the Academic Council of the University of Delhi was held on 03.01.2010 wherein the case of the present petitioner was also taken into consideration. Counsel for the respondent has produced the records of the Equivalence Committee wherein so far the case of the petitioner is concerned, the Equivalence Committee found that AIU has not accorded equivalence to the Diploma level programme of Wigan and Leigh College i.e. PGDBM and, therefore, the case of the petitioner was not

recommended for admission in the LL.B course. Counsel further submits that vide letter dated 25.11.2010 the Deputy Registrar (Academic) of the University of Delhi sent a letter to the Dean of Faculty of Law apprising him about the decision taken by the Equivalence Committee with regard to the 19 cases of students seeking admission in law course based on the various degrees/ diplomas from different Universities/Institutes. Counsel also submits that every admission given to a student in the Delhi University is a provisional admission and, therefore, the petitioner cannot claim that he was given any final admission in the said course. Counsel also submits that the petitioner very well knew in advance that the said PGDBM course was not equivalent to an MBA course and, therefore, he had himself taken the risk of seeking admission in the LL.B course based on the said diploma level course. Counsel also submits that this Court while exercising its writ jurisdiction will not interfere in the decision taken by the Equivalence Committee as the members of the said committee are experts in their

field and they are fully competent to take such academic decisions based on their expertise. In support of his argument, counsel for the respondent placed reliance on the judgment of the Hon'ble Supreme Court in ***Guru Nanak Dev University Vs. Sanjay Kumar Katwal (2009)1 SCC 610*** and the judgment dated 28th October, 2010 passed by this Court in W.P.(C) No.6128/2008.

6. I have heard learned counsel for the parties.

7. It is not in dispute between the parties that the petitioner passed his B.Com from Delhi University with third division. It is also not in dispute that the petitioner got admission in the Post Graduate Diploma in Business Management being conducted by the Weigan and Leigh College (UK) after appearing in the MAT examination. Thereafter the petitioner applied for admission in LLB course for which he appeared in an entrance examination and secured 795th rank for the 2310 seats available. He was called for counseling and on 16.6.2010 by the Admission Committee of the respondent and was directed to deposit the

fees and was given admission in the evening batch of Faculty of Law at Law Centre –II. Thereafter the petitioner started attending classes of the I semester.

8. It is the case of the petitioner that the neither at the time of application for the entrance exam nor at the time of granting admission the petitioner was intimated that the said PGDBM course is subject to scrutiny by the University . It is also the grievance of the petitioner that there was not even a whisper of any communication regarding the same and the petitioner sincerely attended the classes of the I semester securing 95% attendance and it was only on 25.11.10 that he received a call from the office of the respondent no.2 directing him to submit a representation in regard to the said PGDBM course. The counsel for the petitioner also contended that the petitioner was not allowed to appear in the I semester examination and that he still attended the classes of the II semester beginning from January, 2011. The contention of the counsel for the petitioner is that it is only on 17.3.2011 that the petitioner

was intimated for the first time when he received a letter dated 10.3.2011 that the decision which was taken by the University vide letter dated 24.1.11 is reiterated, which as per the counsel for the petitioner, was never received by him. The counsel for the petitioner contended that there has been violation of principles of natural justice as despite repeated representations and efforts made by the petitioner he was not granted the opportunity of personal hearing and now at this belated stage when the petitioner has attended the classes of both the semesters, the petitioner cannot be denied admission as he would lose one precious academic year.

9. The learned counsel for the respondents on the other hand contends that the admissions granted by the University to all the students are provisional admissions and it is not that the petitioner is being singled out. The counsel for the respondent further contends that the PGDBM course undertaken by the petitioner at Wigan and Leigh College(UK) was not equivalent to the MBA course as administered by the respondent University and this was very well intimated to the

petitioner. The counsel submits that the Dean of Faculty of Law was intimated of the decision of the Equivalence Committee on 25.11.2010 after the meeting had taken place on 3.11.10, which was also intimated to the petitioner. The counsel submits that the petitioner is suppressing material facts from the court that the letter dated 10.3.2011 was in reply to the request of the petitioner to reconsider his case which had been once rejected and therefore the petitioner cannot now claim that he only came to know about the said decision of the respondents in March , 2011.

10. The counsel for the respondent produced the minutes of the meeting of the Equivalence Committee held on 3.11.10 in which at page two it was stated that:

“4. The Committee considered all the 19 cases of equivalence received from the Faculty of Law who had been provisionally admitted to law courses based on the various degrees/diplomas from the different Universities/Institutes, submitted by the candidates.

The Committee considered the cases of the Faculty of Law and also the views of the AIU contained in the letter No. EV/IV (33)/2010/211087 dated 30.09.2010. The decision of the Equivalence Committee is noted against each case in the Annexure-I.”

11. In the Annexure at serial no. 9 is the case of the petitioner with the remarks that the *AIU has not accorded*

equivalence to the Diploma level programme of Wigan and Leigh College and hence not recommended. This decision was conveyed by the Deputy Registrar (Academic) to the Dean of Faculty of Law, Campus Law Centre vide letter dated 25.11.2010. The contention of the petitioner that this decision of the Equivalence Committee was not communicated to him cannot be given any credence as the petitioner has not shown or alleged any malafide on the part of the respondent University to be inimical towards the petitioner. The petitioner has not disputed the fact that the University had intimated him on 26.11.2010 that he would not be able to appear in the exams of the I semester and that goes to show that the petitioner had been made aware of the said decision on 26.11.2010 itself.

12. Coming to the subsequent letters, it would be clear from the letter dated 12.1.2011(placed on record at page 33 of the paperbook) ,of the Association of Indian Universities (AIU) addressed to the petitioner whereby it is stated that the AIU has not accorded equivalence to the

Diploma awarded by Wigan and Leigh College. Further the letter dated 24.1.2011 addressed to the petitioner by the Deputy Registrar is reproduced below:

".....Dear Sir,

This has reference to your request dated 18.01.2010, to reconsider the case of the Equivalence Committee, in the light of the Association of Indian Universities letter No. EV/II(281)2011/1769 dated January 12,2011.

I am directed to inform you that the decision already taken in your case by the University on the recommendations of the Equivalence committee of the Academic Council stands."

13. It is crystal clear from the above letter that the petitioner had written to the respondent university for re-consideration of his case in the Equivalence Committee on 18.1.2010 which would mean that he was aware of the decision of the Equivalence Committee on the said date of making the said representation. The succeeding letter dated 10.3.2011 addressed to the petitioner states as:

"....Dear Sir,

Please refer to your letter dated 28.02.2010, on the subject cited above.

In this connection, I am to inform you that the matter has been re-examined at the appropriate level of the University. Accordingly, the decision already communicated to you vide letter No. Aca.I/Equi/2010/21 dated 24.01.2011, is reiterated.

The letter referred to above, received back undelivered from the postal department is enclosed."

14. Hence in the face of the clear intimations addressed to the petitioner, it cannot be believed in any circumstance that the petitioner was not intimated about the said decision and in fact the representations of the petitioner were for reconsideration and reexamining of his case by the Equivalence Committee.

15. Even otherwise, there can be no departure from the fact that equivalence is a technical matter and is the domain of the experts in the field to scrutinize and give a finding as to whether a course pursued by a student from a different university or institute is equivalent to the same course administered by the university in which admission is sought. The Apex court in the case of ***Guru Nanak Dev University vs. Sanjay Kumar Katwal (supra)*** held that:

"Equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. The first respondent has not been able to produce any document to show that appellant university has recognized the M.A. English (OUS) of Annamalai University through distance education as equivalent to M.A. of appellant university. Thus it has to be held that first respondent does not

fulfil the eligibility criterion of the appellant university for admission to three year law course.

14. The first respondent made a faint attempt to contend that the distance education system includes 'correspondence courses' and therefore recognition of M.A. (correspondence course) as equivalent to M.A. course of appellant University, would amount to recognition of M.A. - OUS (distance education) course, as an equivalent. For this purpose, he relied upon the definition of "distance education system" in Section 2(e) of Indira Gandhi National Open University Act, 1985. But there is nothing to show that Annamalai University has treated correspondence course and OUS (distance education) course as the same. What is more important is that the appellant university does not wish to treat correspondence course and Distance Education Course as being the same. That is a matter of policy. Courts will not interfere with the said policy relating to an academic matter."

16. This was further reiterated in the recent judgment of this court in WPC No. 6128/2008 titled ***Ajay Kumar vs. University of Delhi*** decided on 28.11.2010 holding that there is nothing wrong in a University providing that recognition by it of Degrees of other University shall be subject to the decision of its Equivalence Committee and without the same, the University may not be able to maintain its academic standards.

17. The contention of the counsel for the petitioner that the petitioner was not granted a personal hearing and had an opportunity been given , he would have convinced and

satisfied the committee that the PGDBM course is equivalent to an MBA degree, does not cut any ice. The University as governed by the Statute 8 clause (ix) has the power to recognize the Diploma and Degrees of other Universities and Institutions and to determine their correspondence value in relation to the Diplomas and Degrees of the Delhi University. The Committee has its own procedure whereby the syllabus of the course undertaken is examined to see as to whether it is at par with the course with which the equivalence is sought. The question of personal hearing does not arise and the rules of natural justice must not be stretched too far and should not be invoked merely to avoid adverse consequences. Hence, there has not been any violation of rules of natural justice in the present case.

18. As the petitioner was not allowed to undertake the I semester examination, it was an admonition enough for him to undertake the necessary steps to save his academic year. However, this court of the clear view that the University

cannot be directed to violate its own rules and regulations on the ground of misplaced sympathy.

19. In the light of the above discussion, this court does not find any merit in the present petition and the same is hereby dismissed.

May 04, 2011
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KAILASH GAMBHIR, J