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

+ W.P.(C) 3113/2012 & C.M.6698/2012

% *Judgment dated 19.10.2012*

HEENA BAHAL Petitioner

Through: Ms. Pallavi Langar, Adv.

versus

UNIVERSITY OF DELHI AND ORS Respondent

Through: Mr. Mohinder J.S.Rupal with Ms. Sneha
Ravi Iyer, Advocates for R-1 and 2/
Delhi University.
Mr. A.P.S.Ahluwalia, Sr. Advocate with
Mr. S.S.Ahluwalia, Advocates for R-
3/Dayal Singh College.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Rule. With the consent of counsel for the parties, present petition is set down for final hearing and disposal.
2. Petitioner was admitted to the respondent no.3 college in B.A. (Hons.) Economics.
3. It is the case of the petitioner that she has been regularly attending classes and she was issued an Admit Card by the respondent for appearing in the annual examination. Petitioner was not allowed to appear in the final examination, on account of shortage of attendance, which has led to the filing of the present writ petition. Respondent no.3, college on 12.05.2012 displayed on the notice board a list of names of the students, who were being detained from appearing in the annual/ semester examination.

Petitioner went through the Notice of 12.5.2012, wherein her name was not mentioned. On 17.05.2012 petitioner came to know that a Revised Notice dated 15.05.2012 has been put on the notice board, wherein the name of the petitioner was mentioned, along with the students who were detained from appearing in the annual /Semester Examination, on account of shortage of attendance. Thereafter petitioner approached respondent no.3, college and enquired that as to how all of a sudden her name was included in the list of 15.05.2012, whereas her name was not mentioned in the list of 12.05.2012, whereby the students were detained from appearing in the examination. But no satisfactory reply was received and she was detained from appearing in the Examination on account of shortage of attendance in the course B.A. (Hons.) Economics.

4. Counsel for the petitioner submits that on the one hand respondent no.3, college had already issued Admission Ticket permitting the petitioner to appear in the annual examination for 2nd year, whereby she had attempted two exams, whereas on the other hand petitioner was detained from appearing in the rest of examinations on the ground of shortage of attendance. Hence the act of the respondents is malafide.
5. Counsel for the petitioner also submits that the record of attendance which has been filed in this Court is not accurate as the petitioner had not opted for Linear Algebra Calculus. Instead she had opted for English as a subject for which classes were not held for the entire academic year. Hence the record for the same was not available with the respondent no.2 college.
6. The present petition has been opposed both by counsel for the college and the counsel for the University. Counsel for respondents, college submits that the petitioner has not made out a case of violation of any statutory or constitutional provision and so the writ petition is not maintainable. It is

further contended that the petitioner has not been attending the classes regularly due to which she is short of requisite attendance. As per the college record, for the academic year 2011-12, petitioner had attended only 59.57% lectures in the second year 7.09% less than the required percentage of 66.66% and so she was rightly detained from appearing in the examination. It is denied that the action of the college is arbitrary or violative of principles of natural justice, as the college has only followed the directive of the University.

7. Counsel for the college further submits that the monthly attendance record of the students, including petitioner was posted on the college notice boards as was instructed by the University vide Notification dated 07.02.2012, and that the petitioner was also given due notice for attending the classes regularly at the time of admission in the college as well as through the prospectus. It is submitted that petitioner was duly informed of her attendance for the period July to November, 2011 vide notice dated 23.01.2012 and then on monthly basis as per University Notification dated 7.02.2012 between 21st February and 19th April, 2012. It is submitted that the petitioner was well aware about the attendance rules and also the consequences of violating the same, however, petitioner chose to be unmindful of the same. It is further submitted by counsel for respondents, college that Admit Card issued to the petitioner was provisional, subject to the verification of the attendance record, hence, petitioner cannot claim any right.
8. Mr.Ahluwalia, learned counsel for respondent no.3, submits that the stand taken by petitioner that the attendance record is not accurate is factually incorrect as the petitioner had not opted for Linear Algebra Calculus but instead had opted for English in view of the fact that the petitioner had been attending the classes of Linear Algebra Calculus and it is only at the

stage when the examination form was filled up, did she opt for English language. Be that as it may, counsel for the petitioner submits that attendance of the petitioner is still less than 66.66% for the second year.

9. It is strongly urged by counsel for respondents, college that the respondents, college has complied with the directive of respondent no.1 dated 07.02.2012 and posted the attendance records of the petitioner, along with all other students, on the College notice boards.
10. Counsel for the Delhi University has supported the stand of the college. Mr.Rupal, submits that the requirement of 66.66% of attendance is not a mere technicality or formality, but has been envisaged keeping in mind the rule of education in a person's life. Mr.Rupal, further submits that education requires participation which comes through attending classes, and through the classes a teacher imparts knowledge and tries to imbibe the students with such understanding as what is anticipated by the chosen subject. Counsel for the University further submits that the colleges of the University of Delhi have to act in accordance with the rules and regulations framed by the University from time to time. The relevant provisions of the rules are made available to the students through various means like prospectus etc.
11. Mr.Rupal, further submits that the notification dated 07.02.2012 was issued by the University and all the colleges are duty bound to display the attendance every month to enable a student to verify their attendance status every month. It is next contended that every college and the students are duty bound to follow the rules laid down by the University from time to time. It is for this reasons that every teacher is also required to keep a daily record of attendance of students and to submit the same for uploading on the college website on a monthly basis. The University has also written to every College for time-tables of each teacher to be placed

on the College website in order that students may acquaint themselves with the class schedule and to facilitate their attendance on a regular basis in class.

12. Counsel for the respondents have relied in the case of *University of Delhi & Anr. Vs. Vandana Kandari & Anr., [LPA No.662/2010]* where this Court held that it is mandatory for students to attend classes in order to fulfil the minimum attendance criteria to be allowed to sit in the examination.
13. I have heard counsel for the parties and considered their rival contentions. The students are governed by Ordinance VII of the University, which provides for the minimum attendance which a student must have to be eligible to appear for the examination in each semester / year. Relevant portion of the clauses of the Ordinance VII read as under:

“2 (1) No person shall be deemed to have pursued a regular course of study unless the Principle of his College/ Head of the Department concerned in the case of candidates for the B.A. (Pass), B.A. (Vocational Studies), B.Com (Pass), B.Sc. (General), B.A. (Honours), B. Com (Honours), B.Sc. (Honours) Degrees, the Principal, School of Correspondence Courses and Continuing Education in the case of students registered with the School, and Head of the Department concerned in the case of candidates for any other Degree or Diploma or Certificate Examination is satisfied that the required conditions in respect of his instruction have been fulfilled.

(2) The required conditions shall not be deemed to have been satisfied in respect of the following degrees unless the candidate has attended not less than two-thirds of lectures and practicals, separately, delivered in his College or the University, as the case may be, for the course of study in each academic year.

(9)(a) Subject to the provisions of sub-clauses (b) and (c)

(i) In the case of a student who is selected as a member of the N.C.C. to participate in the annual N.C.C. Camps or is deputed to undertake Civil Defence work and allied duties or in the case of a student who is enrolled in the National Service Scheme and is deputed to various public assignment by or with the approval of the Head of the institution concerned, or a student who is selected to participate in sports or other activities organized by the Inter-University Board or in national or international fixtures in games and sports approved by the Vice-Chancellor, or a student who is required to represent the University at the Inter-University Youth Festival, or a student who is required to participate in periodical training in the Territorial Army, or a student who is deputed by the College to take part in Inter-College sports or fixtures, debates, seminars, symposia or social work projects, or a student who is required to represent the College concerned in debates and other extra-curricular activities held in other Universities or such other activities approved by the Vice-Chancellor, for this purpose, in calculating the total number of lectures etc. delivered in the College, or in the University, as the case may be, for his course of study in each academic year, the number of lectures etc., in each subject delivered, during the period of absence for that purpose shall not be taken into account.

(c) The benefit of exclusion of lectures contemplated in categories (i) or (ii) of sub-clause (a) above, either separately or jointly, shall in no case exceed 1/3 of the total number of lectures delivered.”

14. Ordinance VII of the University provides for the minimum attendance a student should have put in, in order to be eligible to appear for the examination each semester or year, as the case may be. Ordinance VII (2) (9) (a) provides for cases of exception under category (i) and (ii) to the minimum attendance prescribed by the same Ordinance. Category (i) pertains to student taking part in sports, N.C.C., from among other things. Category (ii) pertains to ‘exceptionally hard cases of students who had fallen seriously ill or had met with an accident during the year disabling them from attending classes for a certain period’ could be excluded for

purposes of calculation of attendance of the year and decide each case on its own merits. However, Ordinance VII (2) (9) (a) has been made subject to the express provisions contained in sub clauses (c). Sub clause (c) states in unambiguous terms that the benefit of exclusion of lectures contemplated in the sub clause (a) categories (i) and (ii) 'either separately or jointly, shall in no case exceed 1/3 of the total number of lectures delivered.'

15. Petitioner has failed to state a single ground for not attending the classes regularly, but only taken the plea that the Admission Ticket was issued and she has appeared in two papers of the annual year examination. The mere fact that an Admission Ticket was issued to the petitioner can itself be not a ground to overlook the attendance criteria.
16. It would be useful to reproduce the relevant portion from the college prospectus:

"Discipline
Attendance Rules

All students are expected to attend classes regularly, University Rules require a minimum attendance of 66.66% both in lectures and in tutorials/preceptorials/practicals separately, held in each subject, failing which a student shall be allowed to appear for the University Examinations."

17. The attendance criteria is also find mention in the prospectus as well purchased by all the students at the time of filling up of the admission form, thus it cannot be said that petitioner was not aware about the minimum prescribed attendance. Even otherwise, the stand taken by the petitioner is unacceptable in view of the Ordinance VII of the University.
18. The Ordinance VII of the University lays down the criteria, according to which the petitioner is to attend the minimum 66.66% classes in each semester / year.

19. In view of Ordinance VII, no relief can be granted to the petitioner, consequently, the writ petition and the application stand dismissed. No costs.

G.S.SISTANI, J

OCTOBER 19, 2012

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