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

+ W.P.(C) 3121/2012

% ***Judgment dated 19.10.2012***

NISHANT GUPTA Petitioner
Through: Mr.Mahendra Singh, Advocate

versus

UNIVERSITY OF DELHI AND ANR Respondent
Through: Mr.A.P.S. Ahluwalia, Sr.Advocate with
Mr.S.S. Ahluwalia, Advocate for the
Respondent no.2/ College
Mr.M.J.S. Rupal, Advocate for D.U.

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.2 college in B.Sc. (Hons.) Maths, regular degree course. As the petitioner could not pass the exam, he applied for re-admission as a regular student of 1st year of B.Sc. (Hons.) Maths but the petitioner was not admitted as a regular student of 1st year of B.Sc. (Hons) Maths; and petitioner studied as an ex-student in the 1st year of the course and passed all the papers of the 1st year of B.Sc.(Hons.) Maths. Thereafter petitioner was re-admitted to the 2nd year of B.Sc. (Hons.) Maths as a regular student. The admission ticket for appearing in the B.Sc. (Hons.) Maths Part-II (2nd year) Examination was issued to the petitioner by the respondent, college. It is the case of the petitioner that petitioner appeared in the three papers of 2nd year on 7.5.2012, 11.5.2012 and 15.5.2012 the petitioner perused the Notice

Board of the respondent no.2, college and found a list displaying names of the nine students, who were detained from appearing in the Annual /Semester Examination 2012 on account of shortage of attendance. The name of the petitioner was not mentioned. Thereafter petitioner appeared in the 3rd paper. Thereafter respondent no.2, college displayed another list showing only one name i.e. of the petitioner detaining him from appearing in the Annual/ Semester Examination 2012 on account of shortage of attendance in the course of B.Sc. (Hons.) Maths 2nd year. Thereafter petitioner approached respondent no.2, college and enquired as to why his name had been displayed on notice dated 17.05.2012 and that too after when he has already attempted three papers. No satisfactory response was received. The petitioner was, however, detained from appearing in the Examination on account of shortage of attendance in the course B.Sc. (Hons.) Maths 2nd year.

3. Counsel for the petitioners submits that the petitioner was found short of attendance, whereas he was never given any warning regarding the shortage of attendance during the whole session of 2011-12 and the respondent no.2, college had already issued Admission Ticket permitting him to appear in the annual examination for 2nd year. Counsel for the petitioner submits that the action of the respondent no.1 is illegal and arbitrary.
4. The present petition has been opposed both by counsel for the college and the counsel for the University.
5. Counsel for respondent no.2/ 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 secured the attendance far below the percentage of 66.66 and so he was rightly prevented from appearing in the examination. It is

denied that the action of the Principal is arbitrary and violative of principles of natural justice, as the college has only followed the directive of the University.

6. 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 the same was informed through the prospectus. The comprehensive attendance details for the whole year were posted and the list of those who failed to meet the eligibility requirement vis-à-vis attendance was also posted. 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 strongly urged by counsel for respondent no.2 that the respondent no.2 has complied with the directive of respondent no.1 dated 07.02.2012 and posted the attendance records of the petitioners, along with all other students, on the College notice boards.
7. 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.

8. 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.
9. 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.
10. 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.”

11. 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.’
12. 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.”
13. Petitioner has not mentioned any specific ground for not attending the classes regularly, but only taken the plea that the Admission Ticket was issued and he has appeared in three papers of the annual year

examination, whereas only the provisional Admission Ticket Card was issued to the petitioner. The stand taken by the petitioner is unacceptable in view of the Ordinance VII of the University.

14. The Ordinance VII of the University and the prospectus lays down the criteria, according to which a student is to attend minimum 66.66% classes in each semester / year. Thus it cannot be said that the stand of the University is arbitrary, or illegal.
15. As the case of the petitioner is fully covered by ordinance of the University dated 07.2.2012 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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