

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 15.05.2015

+ **W.P.(C) 7308/2012**

SHADAB SHAKIL

..... Petitioner

versus

**GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY AND ANR.**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Biswajit & Mr Manoj Gupta.

For the Respondents : Mr Vaibhav Kalra for R-1.

Mr Ankit Jain for R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner claims to have completed the four years course of Bachelor of Technology (Electrical and Electronics Engineering) (hereafter 'B.Tech (EEE)') during the academic sessions 2004-2008. However, the provisional certificate issued by the respondent No.1 University (hereafter 'the University') indicates that the petitioner completed the degree course in May, 2010. This has led the petitioner to file the present petition, *inter alia*, praying that the provisional certificate issued by the University be corrected. In addition, the petitioner is also aggrieved by the consolidated mark sheet issued by the University, which indicates that the petitioner was awarded 50 marks in the subject of Electromagnetic Field Theory (code 'ETEE 210'). According to the petitioner, the consolidated mark sheet

incorrectly reflects the marks awarded to the petitioner in the internal examination as being 6 marks instead of 14 marks. Thus, the petitioner also prays that the consolidated mark sheet issued by the University be corrected.

2. According to the University, the petitioner had not passed in the subject of Electromagnetic Field Theory (subject code 'ETEE 210') as the marks obtained by the petitioner were below the threshold of 50%. The petitioner had re-appeared in the semester end examination for the aforesaid subject in 2008 and had obtained 39 marks. However, she had not appeared for the internal evaluation during the said year - 2008 and, therefore, the marks obtained by her in 2006 in the internal evaluation had been considered for the purposes of issuing the consolidating mark sheet.

3. The relevant facts necessary to appreciate the controversy in this petition are briefly narrated as under:-

3.1. In the year 2004, the petitioner secured admission in an institute namely BLS Education Society affiliated with the University for undertaking a course of B.Tech (EEE) for the Academic Session 2004-2008. The course of B.Tech (EEE) spanned over four years comprising of eight semesters. After completing the first year, the petitioner migrated to HMR Institute of Technology and Management (hereafter 'HMR Institute') - another institute affiliated with the University.

3.2. In May 2006, the petitioner appeared for the semester end examination of fourth semester. However the petitioner failed to pass in one of the subject, namely, 'Electromagnetic Field Theory' having Code No.

ETEE 210 (hereafter 'the said subject'); the petitioner scored only 15 marks out of 100 marks, 6 marks in internal evaluation and 9 marks in semester end examination.

3.3. In May 2007, the petitioner took the internal tests with respect to the said subject and was awarded 14 marks in the internal evaluation. However, the petitioner did not appear for the semester end examination. The University issued a statement of marks dated 06.06.2007, which also indicated the petitioner's score as 14 marks in the internal examination.

3.4. In May 2008, the petitioner re-appeared in the semester end examination for the said subject and scored 39 marks out of 75 marks.

3.5. The University generated a Statement of Marks on 03.09.2008, which showed that the petitioner had scored an aggregate of 45 marks out of 100 marks in the said subject; 6 marks in internal evaluation and 39 marks in external semester end examination. Since an aggregate of 50% marks was the passing criteria, the same implied that the petitioner had failed in the said subject.

3.6. The petitioner did not re-appear for any test or examination in the said subject after May 2008 as in her reckoning, she had successfully completed the course of B.Tech (EEE).

3.7. The HMR Institute also issued a provisional degree certificate dated 08.09.2008, which certified that the petitioner *'has passed the Final Examination of Bachelor of technology in Electrical & Electronics Engineering Department held by the Guru Gobind Singh Indraprastha University, Delhi in the year 2008 according to the list of successful*

candidates supplied by Guru Gobind Singh Indraprastha University. She has secured 68.6% aggregate percentage for the award of B.Tech (EEE) Degree’.

3.8. However, the University did not issue a consolidated mark sheet till the later part of 2010. The Consolidated Statement of Marks, as generated on 26.11.2010, showed that the petitioner scored total of “50*” marks out of 100 marks with respect to the said subject; 6 marks in internal examination and 39 marks in external examination. The asterisk sign (*) referred to a footnote, which indicated that the said score included grace marks. The certificate issued by the University also mentioned the year of completion of the course as May, 2010.

3.9. The petitioner sent representations dated 25.11.2010 and 17.10.2012 to the University for rectification of the consolidated mark sheet to reflect the internal evaluation marks as 14 instead of 6 in respect of the said subject. The petitioner further requested that the Provisional Certificate issued by the University be rectified to show the year of completion of course as 2008 instead of 2010.

4. According to the University, the marks obtained by the petitioner in the internal evaluation/ tests taken by her in 2007 cannot be considered, as the petitioner had not re-appeared for the semester end examination in 2007. In other words, according to the University, it is necessary that a candidate also appears for the semester end examination for the internal examination results to be taken into account. The petitioner disputed the said contention and submitted that improved marks awarded in the internal

evaluation are to be considered irrespective of whether a candidate has appeared in the semester end examination or not.

5. The University explained that the Provisional Certificate issued by the University indicated that the petitioner had passed the course in May, 2010 as she had been awarded grace marks in 2010. It is stated that the said grace marks can only be awarded at the end of the permissible span of the course, which in this case would have ended in May, 2010. It was contended that since the petitioner had cleared the examination by award of the grace marks she could not have been declared as 'passed' prior to the end of the permitted span of the course.

6. Before proceeding to address the controversy it is necessary to understand the structure of the four year B.Tech (EEE) course and the methodology of evaluation.

7. The course span is divided into eight semesters of six months each. The evaluation in each subject consists of Teacher's Continuous Evaluation, which includes class tests as well as group discussion. The said evaluation is also referred to as internal evaluation. The internal evaluation is provided a weightage of 25 marks and the semester end examination has been assigned a weightage of 75 marks.

8. The criterion for passing the course is fixed as 50%. The controversy whether the petitioner had cleared her examination in the said subject, has to be examined in the light of Paragraph 11 of Ordinance 11 of the University. The relevant clauses of the said Ordinance are quoted below:-

“11.0 CRITERIA FOR PASSING COURSES, MARKS AND DIVISIONS

11.1(i) Obtaining a minimum of 50% marks in aggregate in each course including the semester-end examination and the teacher's continuous evaluation shall be essential for passing the course and earning its assigned credits. A candidate, who secures less than 50% of marks in a course, shall be deemed to have failed in that course.

(ii) A student may apply, within two weeks from the date of the declaration of the result, for re-checking of the examination scripts(s) of a specific course(s) on the payment of prescribed fees. Rechecking shall mean verifying whether all the questions and their parts have been duly marked as per the question paper, and the totalling of marks. In the event of a discrepancy being found, the same shall be rectified through appropriate changes in both the result as well as marks-sheet of the concerned semester-end examination.

11.2(i) A student obtaining less than 50% of maximum marks (including semester end examination and Teacher's Continuous Evaluation) assigned to a course and failing in the course shall be allowed to re-appear in a semester end examination of the course in a subsequent semester(s) when the course is offered, subject to maximum permissible period of (n+4) semesters as mentioned in clause 4.3. The re-appearing students who secured less than 50% marks in the teacher's continuous evaluation have the option to repeat and improve the two class tests performance with the next batch of students, in such cases the student will request for such improvement in the beginning of the said semester to the Dean/Director of the School/Institute and the improved internal marks, if received from the school/institution concerned at least 7 days before the commencement of semester end-term examination shall be considered, otherwise the previous internal marks already obtained by the student shall be taken into account without any modification. In such cases where the students opt to improve the two class tests performance with the next batch of students, the marks

obtained in two class tests will be proportionately increased to include the component of assignment/group discussion/viva voce/additional test/quizzes etc.”

9. It is apparent from the above that a student who has obtained less than 50% marks and is failing in the subject, is allowed to re-appear in the semester end examination in the subsequent semester. Such students who have secured less than 50% marks in the internal evaluation (Teacher’s Continuous Evaluation) are also provided the option to repeat and improve their performance in the class tests (i.e. internal tests) along with the next batch of students. The expression ‘*the re-appearing students*’ obviously means the students who are re-appearing in the semester end examination. Paragraph 11.2(i) of Ordinance 11 expressly provides that “*the re-appearing students...have the option to repeat and improve the two class tests performance with the next batch of students*” Thus, the option to improve the class test performance is available only to those students who are re-appearing in the semester end examination.

10. In the present case, the petitioner appeared for the internal tests in 2007 but did not appear for the semester end examination in terms of Paragraph 11.2(i) of Ordinance 11. The option to reappear in internal examination was available to only to students who were re-appearing in the semester end examination. Since the petitioner did not appear in the semester end examination in the year 2007, the option to re-appear in the internal examination was not available to the petitioner in that year. Thus, the petitioner’s contention that the marks obtained in internal examination in 2007 ought to be considered is not sustainable in view of the plain language of Paragraph 11.2(i) of Ordinance 11.

11. The petitioner could have re-appeared for the internal tests held in 2008 as she was re-appearing in the semester end examination in that year. But, the petitioner did not appear for internal tests and only appeared in the semester end examination. In view of the above, I find no infirmity with the decision of the University to take the marks awarded to the petitioner in the internal tests conducted in 2006 for the purposes of issuing the final mark sheet.

12. The next aspect to be considered is whether the provisional certificate issued to the petitioner ought to certify her as having cleared the course of B.Tech (EEE) in the year 2008 instead of the year 2010.

13. According to the University, the petitioner had passed the B.Tech (EEE) course by virtue of 5 grace marks awarded in the said subject. And, these grace marks could be awarded only after the maximum permissible span of the course was over. The learned counsel for the University has referred to an order dated 28.07.2008 issued by the Office of the Controller of Examination. The relevant provision for awarding grace marks as indicated in the said order is quoted below:-

“On the recommendations of Dean’s Committee, the competent authority has approved the following policy of awarding grace marks, if this, enables the student to become eligible for the award of degree:

1. **Courses where there is relaxation of credits for the award of degree:**

Six grace marks after n+2 years, if this, enables a student to become eligible for the award of degree.”

14. It is apparent from the plain reading of the above order that grace marks could be awarded only after $n+2$ years (where 'n' is equal to the duration of the course). In the present case, the prescribed duration of B.Tech (EEE) course in respect of the petitioner, was the academic session 2004-2008. In terms of Paragraph 4.3 of Ordinance 11, the maximum permissible period for completing a programme for which the prescribed duration is for end semester is $(n+4)$ semesters). Thus, the maximum permissible period would be six years. In terms of the Office order dated 28.07.2008, grace marks could be awarded only at the end of six years, that is, in May, 2010. Thus, the Provisional Certificate which declares the petitioner to have cleared the course in 2010 is in conformity with the Office Order dated 28.07.2008 and the relevant Ordinance of the University.

15. The petitioner has relied on the mark sheet issued by the University in 2007, which indicates the petitioner to have secured 14 marks in the internal examination conducted in 2007. The petitioner contends that having issued the mark sheet indicating the petitioner's marks to be 14 in the internal examination, the University cannot now ignore the same. I am unable to accept this contention. The mark sheet issued by the University only indicates the marks informed to the University by HMR Institute. The mark sheet is a factual narration of the marks awarded to the petitioner in the internal tests for which the petitioner had appeared. The same does not necessarily imply that the said marks would be considered for awarding the degree even though it is held that the petitioner was not eligible to appear for the said internal evaluation. The Provisional Certificate issued by HMR

Institute also would not bind the University as in the facts of the present case the same is clearly contrary to the relevant ordinance of the University.

16. The petition is without merit and is, accordingly, dismissed. No order as to costs.

VIBHU BAKHRU, J

MAY 15, 2015
pkv/RK

